

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, MAY 4, 2020  
MINUTES  
VIA ZOOM VIDEO CONFERENCING TECHNOLOGY**

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

PRESENT: Mayor Paul Skrede, Councilmember's Kent Carlson, Steve Erickson, Melissa McNeill, and Tony Jewett

STAFF: Police Chief Cory Johnson, Zoning Coordinator Pat Smith, and City Administrator Dana Young

2. **APPROVE CONSENT AGENDA**

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

- A. Approve April 20, 2020 Regular Council Minutes
- B. Approve Verifieds
- C. Approve 6-Month Probation of Deputy Clerk Tracy Gustafson
- D. Approve 6-Month Probation of Mark Duffy, Public Works
- E. Change Designation of Official Publication
- F. Approve March 2020 Treasurer's Report

Seconded by Councilmember McNeill. Motion carried 5-0.

3. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

4. **PUBLIC HEARING**

A. **Public Hearing on the Partial Vacation of Dale Avenue**

Administrator Young stated that the public hearing on the request to vacate a portion of Dale Avenue was originally held on April 20<sup>th</sup>. He stated that there was no one in attendance at the public hearing and the Council took no action on the vacation request due to several unanswered questions regarding the proposed vacation request. He stated that the Council expressed concerns regarding access to the existing pedestrian easement if this portion of Dale Avenue were vacated and the overall extent of the proposed vacation.

Administrator Young stated that the proposed resolution approving the vacation could include language that would maintain the existing pedestrian easement until the lot reconfiguration is submitted that could potentially relocate the pedestrian easement to the new sewer easement.

He stated that in regards to the unusual dimensions of the proposed vacation, David Steingas stated that this would allow the guest house to have street access. He stated that staff continues to support this vacation request but only if the vacated portion of Dale Avenue were to extend all the way to the westerly line of Walden Trail. The guest house would simply have to install a driveway to access Dale Avenue.

Mayor Skrede stated that he visited this site with Councilmember Carlson and Public Works Foreman John Menzel and agreed that the proposed vacation dimensions would be difficult for our crew to plow and agreed that the guest house could access Dale Avenue with a driveway.

Councilmember Carlson stated that the overall intent of the vacation is to create three new large sized lots. He stated that the Council needs to provide some direction to the applicant so that they address the proposed new subdivision. He stated that the drainage & utility easement need to be maintained.

Councilmember Jewett suggested including the document number of the pedestrian easement within the approving resolution to ensure that access to the pedestrian easement is maintained following the vacation of a portion of Dale Avenue.

The Council unanimously agreed with the proposed vacation of that portion of Dale Avenue west of the westerly line of Walden Trail.

Mayor Skrede closed the public hearing at 7:11 p.m.

## 5. PLANNING & ZONING REQUESTS

### A. Variance request of Matt and Kelly Allman to encroach into the front yard setback in conjunction with the construction of a new home at 19905 Lakeview Avenue

Planning Director Pat Smith presented the staff report. The applicants are requesting a 7 feet-5 inches front yard setback variance in order to build a new house.

Motion by Councilmember Erickson to approve the 7-foot/5-inch front yard setback variance for a new house at 19905 Lakeview Ave subject to the conditions listed in the staff report deleting condition #2 that a stormwater maintenance agreement be recorded with Hennepin County. Seconded by Councilmember Carlson. Motion carried 5/0.

### B. Variance requests of H/A Partners to encroach into the side yard setback, lake yard setback, and to exceed the impervious surface area in conjunction with the construction of a new house at 19875 Cottagewood Avenue

Smith presented the staff report. He stated that the applicant is requesting a variance to encroach 7.5 feet into the minimum required east side yard setback, a variance to encroach 23.8' into the minimum required lake yard setback, and a variance to exceed the maximum required impervious surface percentage by 6.6% in conjunction with the construction of a new home.

Councilmember Carlson corrected the hardcover variance request. Councilmember McNeill asked about the need for a grading variance. Smith noted that the revised city engineer memo states no variance is needed.

Cory Lepper suggested moving the house 12.5 feet from the common property line of Mr. Baldwin (west property line). This will help preserve the mature trees along the common property line.

Elmer Baldwin addressed the City Council. He appreciates the downsizing of the proposed house. It was noted that the existing fire lane is not needed by the fire department anymore. He noted that he is concerned with the construction traffic in the area.

Mayor Skrede requested the stormwater be tapped into the City's storm sewer. Cory Lepper agreed to look into this.

Councilmember Jewett suggested televising the storm sewer around the Allman property.

Councilmember Carlson favored moving the house 2.5 feet farther from the west property line so that the resulting side yard setback would be 12.5 feet from the west property line and five feet from the east property line. If half of the City's fire lane was considered part of the subject property, this would create side yard setbacks of 12.5 feet on both sides of the proposed house.

Councilmember McNeill appreciated the changes to the project since the Planning Commission. Councilmember Jewett stated that he is comfortable with either side yard setbacks. Councilmember Erickson stated that he is supportive of the project and the 12.5 feet from the West property line and is glad to see the elimination of the two garages next to the street.

Motion by Councilmember Carlson to approve the variances to encroach 5 feet into the required side yard setback, encroach 23.8' into the minimum required lake yard setback, and a variance to exceed the maximum required impervious surface percentage by 6.6% through mitigation of the overage using a storm water plan approved by the City's Engineer in conjunction with the construction of a new home at 19875 Cottagewood Avenue subject to the conditions listed in the staff report and city engineer approval. Seconded by Councilmember McNeill. Motion carried 5/0

**C. Variance requests of Andrew and Kathryn Krejci to encroach into the side yard setback, lake yard setback, and to exceed the impervious surface area in conjunction with construction of an addition at 19880 Lakeview Avenue**

Smith presented the staff report. He stated that the applicants are requesting a variance to reduce the side yard setback from 9.4 feet to 8.7 feet, a variance to reduce the lake yard setback from 100 feet to 64 feet (to the patio) and a variance to exceed the total hard cover by 12%.

Councilmember Jewett asked about the need for a variance from the patio. Councilmember Carlson said the two steps raise the patio to make it a structure.

Councilmember McNeill asked how much the stormwater mitigation help would reduce the hardcover. Cory Lepper stated it would be reduced to 23.5%. Mayor Skrede asked if the City's Engineer could verify the applicant's calculations on reduction of hardcover. Councilmember Jewett liked having the stormwater information on the survey.

Motion by Councilmember Carlson to approve a variance to reduce the side yard setback from 9.4 feet to 8.7 feet, a variance to reduce the lake yard setback from 100 feet to 64 feet (to the patio) and a variance to exceed the total hard cover by 12% subject to the conditions listed in the staff report. Seconded by Councilmember Jewett. Motion carried 5/0

## **6. UNFINISHED BUSINESS**

### **A. Approve Boat Lift Addendum**

Administrator Young stated that at the April 20<sup>th</sup> Council meeting, the Council discussed the possibility of adding an addendum to the Mooring Lease Agreement that would allow residents on a dock slip to install a boat lift. He stated that two primary concerns expressed at the meeting concerned the lack of a liability waiver to the addendum and Section 4 of the Boat Lift Addendum that includes specific models of boat lifts and whether these models would fit in the 9 1/2 foot wide dock slips.

Councilmember Jewett stated that he talked with both Dean Friesen about his interest in having a boat lift at his dock slip and with Joe Hoeschen, the owner of Don Anthony's barge service. He stated that Joe told him that hydraulic lifts work best, can be slid under a dock, and can be custom built. He stated that sent this information to Dean, since he didn't think his boat lift would fit into a Deephaven dock slip. He stated that Dean was concerned that hydraulic lifts don't last long and the cantilever design doesn't work well on soft-bottom lake beds.

Councilmember Jewett added that he agrees that we don't want to design the specifications for boat lifts and doesn't care if the lift is hydraulic or not as long as it fits in the slip. He stated that most people seem to prefer the standard lift style. He stated that we have batted this around long enough but felt that we had to take some sort of action as this request for a boat lift will come up again.

Councilmember Carlson asked if a standard lift could use solar batteries.

Councilmember Jewett stated that they do.

Councilmember Carlson agreed that it is not our issue to figure out design specifications and these specifications would likely change in the future.

Motion by Councilmember Jewett to approve Boat Lift Addendum and Liability Waiver, as amended. Seconded by Councilmember McNeill. Motion carried 5-0.

### **B. Approve Warming House Restroom Lock Proposal**

Administrator Young stated that on April 20<sup>th</sup>, the Deephaven City Council discussed a recommendation from the Park Committee requesting that the Council consider and determine

the appropriate funding for securing the warming house and restrooms during those hours that Thorpe Park is closed. In addition, the Council also considered the following recommendation from the Public Safety Committee to obtain a quote on the installation of a timer on the two restroom doors set to automatically lock at 10:00 p.m. and reopen at 6:00 a.m.

He stated that a quote from USA Security, Inc. in the amount of \$4,331.25 would provide two automatic locks for the Warming House restrooms.

Councilmember McNeill stated that locking the restrooms makes sense as long as the warming house doors stays locked.

Police Chief Johnson stated that the quote looks good to him.

Motion by Councilmember Jewett to approve the bid submitted by USA Security, Inc. in the amount of \$4,331.25 to install two automatic locks at the Thorpe Park Warming House restrooms. Seconded by Councilmember McNeill. Motion carried 5-0.

**C. Present Ordinance No. 08-08, Establishing Uniform Park & Ice Rink Hours**

Administrator Young stated that on April 20<sup>th</sup>, the Deephaven City Council reviewed the Public Safety Commission's recommendations on establishing consistent closing hours for all city beaches, parks and ice rinks from 10:00 p.m. to 6:00 a.m.

He stated that Ordinance No. 08-08 establishes uniform hours requiring parks, beaches and ice rinks to close to the public at 10:00 p.m. and open at 6:00 a.m. The ordinance would also delete "*except those who, without delay, are traveling on the established walks, paths and streets*" under Park Hours. He stated that the proposed ordinance does not propose any changes to Beach Hours, as beaches already close to the public between 10:00 p.m. and 6:00 a.m.

He stated that the ordinance would be posted for 10 days as required by law and presented for Council adoption on May 18<sup>th</sup>.

Councilmember McNeill noted that the proposed hours are uniform with other surrounding communities.

**D. Discuss the Issuance of Non-Resident Beach Permits**

Administrator Young stated that on April 20<sup>th</sup>, the Deephaven City Council discussed a recommendation from the Park Committee requesting that the Council consider whether to sell beach parking permits to non-residents during the COVID-19 pandemic in the attempt to alleviate potential problems with over-crowding and maintaining the appropriate social distancing at the beaches.

He stated that the Council decided to table further discussion on whether to sell or limit the sale of non-resident beach permits until the May 4<sup>th</sup> Council meeting, when more information will be available on whether Governor Walz decides to extend the current Stay at Home Order. In

addition, the Governor's order may also add clarifying details on the proposed opening of beaches or other similar public uses.

Mayor Skrede stated that he has no interest in not issuing beach parking permits to non-residents.

Councilmember McNeill stated that she would be amenable to not selling non-resident beach permits.

Councilmember Jewett stated that outdoor recreation is discussed in the latest Stay-at-Home Order with the recommendation that people enjoy the outdoors but stay close to home. He stated that issuing non-resident beach permits isn't keeping with the spirit of the Order.

Councilmember McNeill agreed with Councilmember Jewett.

Mayor Skrede stated that not selling beach permits would just enable non-residents to park elsewhere. He stated that this would not restrict beach attendance.

Councilmember McNeill stated that people are inherently lazy and would likely not want to park too far away. She stated that she doesn't see a compelling reason to sell non-resident beach permits. She stated that she wouldn't be opposed to capping the boat launch permits as well.

Mayor Skrede stated that he respectfully disagreed. He stated that he doesn't see this as an abuse issue and felt that many non-residents who purchased permits were repeat customers. He stated that he doesn't care about the loss of revenue, he just didn't know if we were solving anything by not selling permits. He noted that we do have lifeguards scheduled to work this year.

Councilmember Jewett noted that the City webpage will have to be updated as it references playgrounds closed until April 30<sup>th</sup>.

Police Chief Johnson stated that the notice states that the City doesn't recommend their use as they are not sanitized.

Councilmember Jewett stated that in his circle, one-half of the people are following social distancing and the other half are not. The ones following social distancing are annoyed at those who are not.

Mayor Skrede stated that a lot of Deephaven residents apply for additional parking permits beyond the two that are mailed out to them. He stated that it has been a tough enough spring and doesn't want to make it any harder. He added that the Public Safety Committee simply thought that non-residents would just walk further to the beach.

Police Chief Johnson stated that he wasn't at the last meeting when this discussion was first held and asked if the Council had any objections to capping the number of permits.

Councilmember McNeill stated that it was the consensus of the Council after the last discussion to wait until the Governor's Order.

Councilmember Carlson stated that he didn't know when this situation would get any better. He noted that the vast majority of non-residents are from surrounding communities who also want to enjoy Lake Minnetonka. He stated that people should take responsibility for social distancing.

Councilmember Jewett stated that Minnetonka residents have access to Libb's Lake Beach. He stated that if the peak comes at the end of June, as some experts predict, his preference under the Stay-at-Home Order is to not sell non-resident beach permits.

Mayor Skrede stated that he doesn't have a problem with holding off on the sale of non-resident beach permits until the Governor decides to lift the Stay-at-Home Order. He added that the police can monitor who is using the parking at the beach.

Councilmember Jewett stated that he is agreeable with the sale of launch permits as their motivation is to go fishing.

The Council agreed to continue with the sale of launch permits.

Mayor Skrede stated that everyone is in agreement to sell boat launch permits and to refrain from selling non-resident beach permits until such time as the Governor lifts the Stay-at-Home Order.

Councilmember Jewett stated that he would likely vote yes once the Stay-at-Home Order is lifted.

Councilmember Erickson stated that he agrees with Councilmember Jewett. Beaches are already crowded. He noted that non-residents could always purchase the more expensive boat launch permits.

Councilmember Carlson agreed that we should wait until the Governor's Order is lifted. He stated that he would then approve the sale of non-resident beach permits but would consider limiting the overall number sold.

Mayor Skrede stated that he would be more than happy to survey how crowded it is down at the beach. He stated that it would be helpful to get an idea on who is using the parking lots.

**E. Other**

There was no other Unfinished Business this evening.

**7. NEW BUSINESS**

**A. Other**

Mayor Skrede noted that there will be discussion at our next meeting about the possibility of eliminating the June 1<sup>st</sup> Deadline and the 90 Day Rule.

## **8. DEPARTMENT REPORTS**

### **A. Excelsior Fire District**

EFD Liaison Steve Erickson provided the following update on the Fire District meeting held on April 22<sup>nd</sup>:

- The Fire Relief Association received a 5% annual pension increase based on the size of their investment holdings as of December 31 2019. He stated that he voted against the increase due to the optics of such a large increase with a declining market. He added that their investment fund is currently 112% funded even after the pension increase.
- Overnight Duty Crews have been extended to seven nights per week.
- The 2019 Audit was presented with no adverse findings.
- The number of medical calls has decreased the past few months.
- The Capital Equipment Fund is being re-worked to minimize large expenditures for the 2021 Budget.

### **B. Police Department**

Police Chief Johnson reviewed the April 2020 Incident Report.

The Council allowed contractor's doing work on two homes on Robinson's Bay Road to park along the west side of the public portion of Robinson's Bay Road.

### **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:

- Summer Hours
- Street Sweeping Schedule
- City Cleanup Day
- Paddleboard Rack update
- Street Striping
- Summerville Road Storm Water Project
- Deephaven Bikeway Feasibility Study Grant
- Presidential Nomination Primary Reimbursement

## **9. ADJOURNMENT**

Motion to adjourn by Councilmember Erickson, seconded by Councilmember McNeill. Motion carried 5-0. The meeting adjourned at 9:36 p.m.

Respectfully submitted,  
Dana H. Young, City Administrator