

**DEEPHAVEN CITY COUNCIL MEETING  
MONDAY, MAY 6, 2019  
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 Kent Carlson, Steve Erickson, Melissa McNeill, and Tony Jewett

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

- A. Approve April 15, 2019 Special Council Minutes & April 15, 2019 Regular Council Minutes
- B. Approve Verifieds

Seconded by Councilmember McNeill. Motion carried 5-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. **PUBLIC HEARING**

- A. **Public Hearing on the Issuance of a Street Improvement Bond for the 2019 Street Improvement Projects – Adopt Resolution No. 14-19, Bond Resolution**

Stacie Kvilvang, with Ehlers & Associates, stated that Ehlers will serve as the municipal advisor to the City of Deephaven to assist with the sale of a Street Reconstruction Bond. She stated that a number of cities issue bonds for street reconstruction projects using Chapter 429 of Minnesota State Statutes, which outlines a special assessment process where at least 20% of the abutting property owners are assessed for a portion of the project cost. She stated that Minnesota State Statutes also allows for the issuance of Street Reconstruction Bonds, which do not require special assessments, following a public hearing, a reverse referendum process, and approval of a

5-Year Street Reconstruction Plan that specifically lists the streets to be resurfaced. She stated that the proposed \$1,500,000 bond issue would be for an 11-year term, with a call feature after 8 years. She stated that the bond is required to be rated and Standard & Poor will provide the rating. She stated that the net proceeds from the bond would be approximately \$1,437,000. She stated that since the bond issue is under \$10 million, it would be bank qualified. She stated that the bond will be sold on June 17<sup>th</sup> on a competitive basis and she would bring the low bid to the City Council at their June 17<sup>th</sup> Council meeting. A PowerPoint was presented showing the proposed property tax impact of the bond debt on a variety of different home values.

Mayor Skrede opened the public hearing at 7:10 p.m.

Mayor Skrede asked if there would be anything needed for bond insurance.

Stacie Kvilvang stated that bond insurance would not be needed due to the likelihood of the City receiving an AAA bond rating.

Mayor Skrede noted that the City would have to wait until the end of the 30-day reverse referendum period before officially issuing the bond.

Stacie Kvilvang stated that the City would have to wait until the end of the 30-day period in which a petition signed by 5% of the residents who voted at the last municipal election was submitted objecting to the sale of the bond.

Mayor Skrede stated that submittal of a petition doesn't mean that the Council can't issue the bond; it would simply require a referendum at the next municipal election.

Stacie Kvilvang stated that she has done these types of bonds for 17 years and doesn't typically see a petition because people want to see the streets resurfaced.

Councilmember Jewett asked for clarification on the net proceeds in the amount of \$1,437,000 and whether the City could pay off the debt earlier than 8 years.

Stacie Kvilvang stated that \$1,437,000 would be the net proceeds from the issuance of the \$1,500,000 bond and that the City would not be allowed to pay off the bond any earlier than 8 years to protect the bond holders.

Mayor Skrede stated that the costs of resurfacing Minnetonka Blvd, W. Highland Avenue, Carsonwood Avenue, Parkway, Easton Road, and Northern Road are all included as part of the bond proceeds for the street reconstruction.

Stacie Kvilvang stated that this is correct and the resurfacing of these streets can be paid by the bond proceeds, city funds, or, if the resurfacing costs are too high, a street could be postponed.

Mayor Skrede stated that we could have increased the size of the bond issue but decided to keep it at \$1.5 million since that was the amount that had been agreed upon.

Councilmember McNeill asked if we would need to have a hard date in which to revise the current 5-Year Street Reconstruction Plan if we wanted to issue another bond.

Stacie Kvilvang stated that there is no hard date. The City would have to review and finalize the 5-Year Street Reconstruction Plan and hold another public hearing.

Mayor Skrede asked for any comments from the public in attendance. Hearing none, the public hearing was closed at 7:18 p.m.

Motion by Councilmember Carlson to approve the City of Deephaven's 5-Year Street Reconstruction and Overlay Plan. Seconded by Councilmember Erickson. Motion carried 5-0.

Motion by Councilmember Carlson to adopt Resolution No. 14-19, a Resolution Adopting a Street Reconstruction Plan and Authorizing the Issuance and Sale of Street Reconstruction Bonds. Seconded by Councilmember Erickson. Motion carried 5-0.

Further discussion was held on how the tax impact of the bond would appear on property tax statements. Stacie Kvilvang stated that property tax statements only show the entire property tax impact and not just the specific tax impact from the bond levy.

## **6. PLANNING & ZONING REQUESTS**

### **A. Consider the variance request of William & Meghan O'Keefe to exceed the maximum permitted impervious surface coverage in order to construct a proposed patio and deck for the property at 19120 Park Avenue**

Zoning Coordinator Cooney presented the staff report. He said that the property owners have applied for a variance to build a rear yard deck and a patio for the property at 19120 Park Avenue. He said that the existing house was built in 2014 according to Hennepin County Records. Cooney said that the property is currently at 25% impervious and the applicants are proposing to expand the impervious areas on the property by 450 square feet which would bring the property to 28.9% impervious surface coverage.

Cooney noted that Section 1302.05(2) of the zoning ordinance limits the maximum impervious coverage of the property to 25%. He said that the applicant is proposing an impervious surface area of 28.9% and is seeking a variance to exceed the maximum impervious surface area by 3.9%. Cooney noted that, at 11,474 square feet in size, the property is undersized for an R-3 lot. He said that the new construction on the property was built to the maximum allowable hardcover in 2014. He noted that currently there is a covered front porch, but there is no rear yard deck or patio which limits the rear yard functionality.

Cooney said that per Section 1353 of the zoning code, stormwater mitigation is required for the request. He said the applicants are proposing a rear yard French drain system using the Aquablox system and that the city engineer's opinion is that this product is acceptable for use in green areas not subject to heavy traffic loads. Cooney noted that since the product does not contain rock material, it allows for a greatly reduced footprint for the French drain. Cooney said

that, per section 1353.03 of the city code, 50 cubic feet of volume retention is required, and the applicant is proposing 51 cubic feet of retention. He said that, as proposed, the size of the proposed Aquablox system meets city code requirements.

Cooney said that he recommends approval with conditions of the variance request to exceed the maximum allowable impervious surface area by 3.9% for the property at 19120 Park Avenue, as proposed.

He said that his motion is conditioned that:

- The applicants complete the stormwater management improvements to meet the requirements and specifications of the city engineer.
- The applicants enter into a maintenance agreement with the city to ensure the long-term operation and maintenance of the stormwater management improvements. The maintenance agreement shall be executed and recorded against the parcel.

Cooney said that his findings are as follows:

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

Yes. The applicant is seeking to vary from the stated impervious standards of the ordinance in build a new deck and patio on substandard lot size for the zoning district. The proposal is in harmony with the stated purpose and intent.

Is the variance consistent with the comprehensive plan?

The request is consistent with the Comprehensive Plan's Housing Elements Goals and Policies which encourages safe, healthy and quality housing that respects the natural environment of the community.

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

Yes. The patio and deck are a reasonable use and a modest expansion of existing conditions. The impervious surface expansion is reasonable in the context of the substandard lot size.

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

Yes. At 57% percent of the minimum lot size, the property is substandard for the zoning district creating challenges to meeting the impervious surface limitations of the ordinance.

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

No. The proposal would not alter the essential character of the locality. The impervious surface expansion is comparable to other substandard lots within the community.

He added that the Planning Commission held a public hearing at their April 16, 2019 meeting and on a 6-0 vote recommended approval of the variance request based on the recommendation, conditions, and findings of staff.

Cooney concluded his staff report.

Mayor Skrede asked if the property owners had agreed to the conditions. Cooney said that they were made aware of the conditions at the Planning Commission meeting but did not verbally agree to those conditions.

Mayor Skrede asked the applicant if they agreed to the conditions. Megan O'Keefe, applicant, said that she agrees to the conditions.

Councilmember Carlson asked how the water was getting to the Aquablox system. Daryl Melquist, contractor for the applicant, said that there is a 2,000 square foot swaled area that drains towards the system. He said that there is a foot of elevation change from the patio to the system.

Mayor Skrede asked if it would be adequate for city staff to conduct a visual inspection of the swale. Cooney said that he thought that would be adequate.

Melquist showed images of the back yard area and discussed the grading.

Councilmember Erickson asked if the rear downspouts would flow to this area. Melquist said that one would not and that one would.

Mayor Skrede asked what happens when the system is full. Melquist said that the system would infiltrate. He said that there is also clear rock below that adds some additional volume. Melquist said that the soil is a bit heavy so that it may not infiltrate that fast.

Mayor Skrede asked if the water could be pumped out of the system for watering the lawn. Melquist said that it could be.

Councilmember Jewett said that the system is typically used for waterfalls and wanted to confirm that there were no working parts to the system. Melquist said that there were no working parts to the Aquablox.

Motion by Councilmember Erickson to recommend approval based upon the recommendation, findings, and conditions of the Planning Commission. Motion was seconded by Councilmember Carlson. Motion carried 5-0.

Councilmember Jewett said that the house was built to the maximum hardcover without a rear yard deck and patio. He said that it is worth a conversation to look at the ordinance. Cooney said that this was looked at the last time the ordinance was revised about 3 years ago.

Councilmember McNeill said that she would like the Planning Commission to consider some possible ordinance changes to address this issue. Cooney said that he would bring it to the Planning Commission.

**B. Review Request for Comprehensive Plan Changes**

Mayor Skrede said that this is an interim step and that the city is reviewing the document but not formally adopting anything at this point. Zoning Coordinator Cooney said that was correct and that he had wanted to make sure that the City Council reviewed the relatively significant changes before they were sent on to the Metropolitan Council.

Cooney presented the staff report. He said that the City of Deephaven submitted its draft 2040 Comprehensive Plan to the Metropolitan Council in December of 2018. He said that on January 30, 2019 the city received an Incomplete for Review letter requesting a number of additional pieces of information. In response, Cooney said that city staff and the city engineer have provided the attached changes.

Cooney said that, per conversation with the Metropolitan Council, there is no specific deadline for submitting revised changes. The city should resubmit the document with changes soon as it is practical.

Cooney said that he will not go through the changes, but would be happy to answer any questions about those changes.

Mayor Skrede said that the city is including much of the Metropolitan Council's data. He said that Deephaven did not generate this data, but was asked to put their data into the report. He said that they have projected large uptick in employment for the city. He said he assumed that home occupations were not included in those numbers.

Cooney said that was correct. Cooney said that the city has already exceeded the 2040 projections for households and employment that were given in the 2015 system statement.

Councilmember Jewett asked why the Metropolitan Council expected the city to lose 37 households by 2040. Cooney said that was not the case, and they projected an increase in households. He said that their 2017 current household estimates exceed their 2040 projections that they made in 2015 and that the city grew faster than they projected.

Mayor Skrede said that this speaks to the unreliability of these projections and making policy based on these numbers is problematic. He said that there are unique situations such as Deephaven Woods that increase the employment. He said that the city does not need new projections since the impacts would be minor. He said that this illustrates the issues with making small, fully built-out cities go through this exercise every 10 years.

Councilmember Jewett asked about Area Median Income. Cooney said it was an estimate of household income for the entire metro region and not any particular subsection of the region. Councilmember Jewett said that the median income would be different in some areas than others.

Councilmember Carlson said that he agreed with Skrede that it would be nice to get some relief from the process since the city is built out and not expected the change much over the next 20 years.

Mayor Skrede said that he spoke with State Senator Osmek about the process being burdensome for small cities such as Deephaven that are fully developed. Mayor Skrede said that Senator Osmek intended to raise the issue at the legislature in order to attempt to provide some relief for cities less than 5,000 in population and that are not growing.

Councilmember Erickson said that he was skeptical of any relief from the process.

Councilmember Carlson said that the Metropolitan Council's time and resources are better spent where these types of processes can have a meaningful impact.

The City Council thanked Cooney for his work and agreed to send the revisions along to the Metropolitan Council without any further edits.

## **7. UNFINISHED BUSINESS**

### **A. Adopt Ordinance No. 04-65, Franchise Agreement with CenterPoint Energy**

Administrator Young stated that Ordinance No. 04-65 was first presented at the April 15, 2019 Council meeting and revisions of the ordinance were made at that time to include the comments submitted by CenterPoint Energy's attorney. He noted that a copy of the ordinance was posted for 10 days as required by law.

Motion by Councilmember Carlson to adopt Ordinance No. 04-65, an Ordinance Establishing a Franchise Agreement with CenterPoint Energy and approve a draft of the summary publication. Seconded by Councilmember Erickson. Motion carried 5-0.

### **B. Approve Pay Estimate No. 1, 2019 Sewer Main Cleaning & Televising Project**

Administrator Young stated that the Council approved the bid submitted by Pipe Services in the amount of \$45,060.25 on March 4, 2019. He stated that this is a partial payment request from Pipe Services.

Motion by Councilmember Erickson to approve Pay Request No. 1 to Pipe Services in the amount of \$5,192.23 for the 2019 Sewer Main Cleaning & Televising Project. Seconded by Councilmember McNeill. Motion carried 5-0.

### **C. Other**

There was no other Unfinished Business this evening.

## **8. NEW BUSINESS**

### **A. Approve Two-Year Contract with City Assessor Dan Distel**

City Administrator Young stated that Dan Distel has served as Deephaven's City Assessor since 1989. Since that time, the Deephaven City Council has typically entered into a series of two-year contracts with Dan, with annual contract fee increases tied to whatever percentage increase had been approved that particular year for employee salaries. With union contracts settled at 2.5% for 2019, staff recommends the same percentage increase for the City Assessor from June 1, 2019 to May 31, 2020 and from June 1, 2020 to May 31, 2021. The current contract for assessing services is set to expire on May 31, 2019.

He stated that Dan Distel discontinued assessing commercial properties in Deephaven beginning in 2013 when Hennepin County took over commercial assessment services. The City currently pays Hennepin County \$2,300 per year for the assessment of commercial properties in Deephaven. In addition, Dan's salary remained at \$51,290 from May 31, 2016 to June 1, 2019 due to the fact that City agreed to pay Hennepin County directly for software and hardware costs relating to the assessment of properties.

Motion by Councilmember Jewett to approve a two-year contract extension with Dan Distel for the assessment of residential properties at a contracted amount of \$52,572 from June 1, 2019 to May 31, 2020 and \$53,886 from June 1, 2020 to May 31, 2021. Seconded by Councilmember Erickson. Motion carried 5-0.

### **B. Other**

There was no other New Business this evening.

## **9. DEPARTMENT REPORTS**

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

EFD Liaison Steve Erickson provided an update on the Fire Chief hiring process.

### **B. Police Department**

Police Chief Johnson reviewed the April 2019 Incident Report. Chief Johnson noted that it was his 20<sup>th</sup> anniversary with the City of Deephaven on April 26<sup>th</sup>. The Council thanked the Chief for his many years of service.

### **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
- State Audit Report
- Street Sweeping Schedule
- City Cleanup Day
- Deer Management
- Paddleboard Rack update
- Fire Chief Hiring Schedule

**10. ADJOURNMENT**

Motion to adjourn by Councilmember Erickson, seconded by Councilmember Carlson. Motion carried 5-0. The meeting adjourned at 8:24 p.m.

Respectfully submitted,  
Dana H. Young  
City Administrator