

**DEEPHAVEN CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 5, 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 Darel Gustafson, Steve Erickson, and Tony Jewett

ABSENT: Councilmember Kent Carlson

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

- A. Approve August 21, 2017 Council Minutes
- B. Approve Verifieds

Seconded by Councilmember Erickson. Motion carried 4-0.

4. **MATTERS FROM THE FLOOR**

Senator David Osmek was present to provide an update on legislative activities and to answer any questions from the City Council. He stated that there was some positive legislation this year, including the removal of a biomass mandate, which would have cost Xcel ratepayers three-quarters of a billion dollars. He added that he was less pleased with the tax bill, which brought forth an internet sales tax resulting in a \$200 million dollar tax increase. He stated that he has also announced that he will be running for Governor.

Mayor Skrede asked about the bridge bond appropriation for the City of Deephaven.

Senator Osmek stated that the bond is a small appropriation that will be included along with the bonding bill for next year.

Councilmember Jewett asked about the legacy tax, which takes in \$300 million dollars per year with one-third earmarked for clean water. He asked why the Lake Minnetonka Conservation District doesn't see any of that funding to provide clean water for Lake Minnetonka.

Senator Osmek stated that he will check to see if the LMCD receives any legacy funding. He stated that he is a member of the Clean Water Council, which primarily does planning and the execution of plans. He stated that it is time for the Clean Water Council to take action. He stated that control of Eurasian Milfoil and Zebra Mussels would seem like a good idea. He stated that he is trying to make legacy funding more readily available through the Clean Water Council.

Mayor Skrede stated that some cities have established Lake Improvement Districts and asked if the Senator had heard any discussion on a lake-wide Lake Improvement District. He stated that many residents are annoyed that the only funding for lakes seems to go towards fishing lakes like Lake Milaca rather than recreational lakes like Lake Minnetonka.

Senator Osmek stated that he hasn't heard much about Lake Improvement Districts but noted that he will be discussion property tax issues tomorrow evening with the Greenwood City Council.

Councilmember Gustafson stated that we don't need another taxing district. He stated that what he would like to see is the taxes generated in our area come back in services to the people who pay the taxes.

Senator Osmek suggested that we need to have the LMCD request funding for projects.

Councilmember Gustafson asked Senator Osmek to identify those line items that name Lake Minnetonka and increase funding for the lake.

The Council thanked Senator Osmek for his time.

5. PLANNING & ZONING REQUESTS

A. Review the variance request of Chrisy and Pat Hughes to encroach 15 feet, 2 inches into the minimum required lake yard setback in order to add an additional floor to a legal nonconforming porch at 19960 Lakeview Avenue.

Zoning Coordinator Cooney presented the staff report. He stated that Chrisy and Pat Hughes are requesting a variance in order to expand their lake yard porch from two levels to three levels. He said that the porch, which is 84 feet 10 inches from the OWHL of Lake Minnetonka, was approved via a variance in 1981. Cooney noted that the proposed expansion would maintain the existing footprint of the porch. He also noted that much of the porch area would be converted to year-round living space and fully integrated into the main floor plan of the house. Cooney said that the addition of an enclosed floor onto the porch is an expansion of the encroachment and, even though the footprint is not changing, a variance is required.

Cooney said that Section 1302.05(3) of the zoning ordinance requires a lake yard setback of 100 feet and the applicant proposes a lake yard setback of 84 feet, 10 inches. He said that he applicant is seeking a variance of 15 feet, 2 inches from the minimum required lake yard setback.

Cooney said that the property is currently at 31.3% impervious surface coverage and that city code limits impervious surface coverage for the property to 25%. Cooney stated that since the footprint of the impervious area is not changing, the legal nonconforming impervious area is not impacted and therefore neither an impervious surface variance nor mitigation is required.

Cooney said that he recommends approval of the variance request to encroach 15 feet, 2 inches into the minimum required lake yard setback for the proposed home addition at 19960 Lakeview Avenue, as presented, based on the following findings.

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

Yes. The setback of the addition is comparable to that of adjacent properties. The modest expansion upward of a previously approved encroachment will have minimal impact and the setback towards the lake yard remains unchanged.

b. Is the variance consistent with the comprehensive plan?

Yes. The request is consistent with the Comprehensive Plan, which seeks to encourage re-investment in existing single family housing.

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

Yes. The proposal is a reasonable and modest expansion of existing conditions on the property.

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

Yes. The footprint of the porch is an existing condition of the property dating back to 1981 and the encroachment was previously approved via a variance.

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

No. The size of the addition is a modest expansion of existing conditions and is compatible in scope and scale with other single family houses within the community.

Cooney said that the Planning Commission held a public hearing at their August 15 meeting and on a 7-0 vote recommended approval of the variance request as presented based on the findings of staff.

Cooney concluded his staff report.

Councilmember Erickson asked about the original construction of the patio and if it had always been enclosed as it is now. Cooney said that he did not know. Erickson said that often when a variance is approved for a second story deck, the area eventually gets filled in and converted to covered porches or a house expansion.

Councilmember Erickson asked the applicants if they intended to remove the entire porch structure and start over. Chrisy Hughes said that yes that is what they were proposing.

Councilmember Gustafson said that these types of deck projects tend to grow walls and that this particular expansion is also growing a hat. He said that those types of expansions should come before the city council. He said that in this particular case, the setback for the porch area is comparable to the properties on either side.

Mayor Skrede said that it is fair to say that any expansion from a previously approved variance happened before the Hughes family took ownership of the property. He said that he agreed that there should be some transparency regarding expansion of these types of projects, but that the owners are here asking for a variance, which is how the city would like to see this happen.

Councilmember Erickson asked about the footprint of the third floor, and asked if it would be patterned after the basement footprint or the second story footprint that includes small wings on each side. Pat Hughes said that, since this is immediately above the second story, there would be wings on each side but that those wings would be unenclosed balcony space.

Motion by Councilmember Erickson to approve the variance request of Chrisy and Pat Hughes as proposed based on the recommendation and findings of the Planning Commission. Motion seconded by Councilmember Gustafson. Motion carried 4-0.

6. UNFINISHED BUSINESS

A. Adopt Resolution No. 41-17, Approving 2017 Levy, Collectible in 2018

Administrator Young stated that MN State Statutes require the adoption of a preliminary tax levy on or before September 30, 2017. The final tax levy will be adopted following the Truth in Taxation hearing on December 4, 2017. He noted that the final tax levy cannot exceed the preliminary tax levy.

He stated that following the review of the 2018 General Fund Budget and the 2018 Capital Improvement Fund Budget beginning with the first budget meeting on June 19th, the following 2018 preliminary tax levy has been proposed:

General Fund Levy	-	\$1,857,000
Capital Improvement Fund Levy	-	<u>\$ 342,000</u>
Total 2017 Preliminary Levy		<u>\$2,199,000</u>

He stated that the 2018 General Fund levy represents a 1.9% increase over the 2017 General Fund levy and the 2018 Capital Improvement Fund levy represents a 14% increase over the 2017 Capital Improvement Fund levy. Overall, the total 2018 tax levy represents a 3.6% increase over the total 2017 tax levy.

He stated that with the State of Minnesota contributing \$33,000 to the City through a small cities road assistance grant next year, there is the opportunity to lower the Capital Improvement Fund levy next year. He stated that with a \$150,000 shortfall in the annual requirement for street funding, he increased the Capital Improvement Fund Budget by \$42,000 to add additional funds for ongoing street improvement projects. He added that \$150,000 will be available to add to the

Capital Improvement Fund in 2024 when the Fire Facilities Bond for the Excelsior Fire District is paid.

Mayor Skrede stated that he would prefer to keep the Capital Improvement Fund levy at \$342,000 as it could always be lowered later. Councilmember Jewett agreed.

Councilmember Gustafson stated that one common issue among residents is improving the condition of the streets.

Councilmember Erickson stated that he would like the Council to have a discussion on streets and future improvements to Minnetonka Blvd. He stated that our streets are not terrible but we need to keep moving forward.

Motion by Councilmember Gustafson to adopt Resolution No. 41-17, Approving the 2017 Levy in the amount of \$2,199,000, Collectible in 2018. Seconded by Councilmember Erickson. Motion carried 4-0.

B. Authorize Payment No. 2 to WM Mueller & Sons for 2017 Street Project

City Engineer David Martini stated that the Deephaven Avenue and Park Avenue mill & overlay project is substantially completed and they are still finalizing quantities and holding back the 5% retainage. He stated that he is recommending Payment No. 2 to WM Mueller & Sons in the amount of \$134,355.82.

Mayor Skrede stated that he has heard many favorable comments on this project although he has also heard some concerns regarding speeding on Deephaven Avenue due to the new street surface.

Councilmember Jewett asked if there had been any problems with keeping the street open.

Mayor Skrede stated that he hasn't heard of any problems. He added that he also gave Allied Blacktop permission to seal coat portions of Azure Road, Northome Avenue, and Rutledge Road in the early evening in case anyone had received any complaints.

Councilmember Gustafson stated that he thought the contractor did a nice job. He noted that there was only some minor delay between the milling and the overlay work.

David Martini noted that although this is a street project, there is quite a bit of drainage issues that need to be addressed during the project.

Mayor Skrede stated that we spent some time discussing drainage issues prior to the project.

Councilmember Erickson agreed that the contractor did a nice job.

Motion by Councilmember Gustafson to authorize Payment No. 2 to WM Mueller & Sons in the amount of \$134,355.82 for the 2017 Street Improvement Project. Seconded by Councilmember Jewett. Motion carried 4-0.

C. Other

There was no other Unfinished Business this evening.

7. NEW BUSINESS

A. Other

Administrator Young stated that he received a Special Event Permit Application from Lindsay Vogt to conduct the Healthy Kids Running Series at Thorpe Park on September 17, 24 and October 1, 8, 15. He stated that the permit was delivered today and would ordinarily have appeared at the September 18th Council meeting but since the first event is scheduled to be held on September 17th, he thought he would present it for Council approval this evening.

Motion by Councilmember Erickson to approve a Special Event Permit Application for the Healthy Kids Running Series to be held at Thorpe Park on September 17, 24 and October 1, 8, 15. Seconded by Councilmember Gustafson. Motion carried 4-0.

8. DEPARTMENT REPORTS

A. Police Department

The Council briefly reviewed the August Police Report

B. Excelsior Fire District

EFD Liaison Steve Erickson stated that the only new thing he has to report is that Assistant Chief Dana George has retired and Pat McCarthy as the new Assistant Chief. He added that Alex Stern has been appointed Battalion Chief #3 and Kim Stern has been appointed Battalion Chief #4.

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:

- Part-time Summer Staff
- Parking permit summary
- Remaining 2018 Budget schedule
- Truth-in-Taxation Hearing requirements
- October Newsletter

9. ADJOURNMENT

Motion to adjourn by Councilmember Erickson, seconded by Councilmember Gustafson.
Motion carried 4-0. The meeting adjourned at 7:55 p.m.

Respectfully submitted,
Dana H. Young
City Administrator