

**DEEPHAVEN CITY COUNCIL MEETING
TUESDAY, SEPTEMBER 8, 2020
MINUTES**

1. **CALL MEETING TO ORDER:** Acting Mayor Steve Erickson called the meeting to order at 7:00 p.m.

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

ABSENT: Mayor Paul Skrede

STAFF: Police Chief Cory Johnson and Administrator Dana Young

2. **PLEDGE OF ALLEGIANCE**

The Council recited the Pledge of Allegiance.

3. **APPROVE CONSENT AGENDA**

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

- A. Approve August 17, 2020 Council Minutes
- B. Approve Verifieds
- C. Approve July 2020 Treasurer's Report

Seconded by Councilmember McNeill. Motion carried 4-0.

4. **MATTERS FROM THE FLOOR**

There were no Matters from the Floor this evening.

5. **PLANNING & ZONING REQUESTS**

- A. **Approve Artisan Home Tour at 20050 Lakeview Avenue for October 23-25**

Administrator Young stated that the property at 20050 Lakeview Avenue is a newly constructed single-family home and the builder and architect would like to include it in the Artisan Home Tour, which is being held Friday, October 23 through Sunday, October 25 from 11:00 to 5:00 p.m. each day.

He stated that the zoning ordinance permits the public showing of residential structures with the issuance of a Showcase Event Permit. The City Code does not require Planning Commission action on Showcase Event requests.

He stated that the applicant anticipates about 150 visitors each day and plan to manage the traffic by bussing attendees to and from the City Hall parking lot, using approximately 10-15 parking spaces. The bus will seat approximately 20 people and will run in a near-continuous loop.

He stated that representatives of Revision, LLC, have met with Police Chief Cory Johnson, who has approved the proposed traffic management plan. No parking will be allowed on local streets and Revision, LLC, will have employees present to make sure no visitors will park in the area.

He stated that the Zoning Ordinance requires the applicant to provide general liability insurance to cover injury and property damage. The applicant has submitted proof of insurance coverage that exceeds the city's required coverage amounts.

A legal notice was published in the Sun Sailor on June 18, 2020, and a public hearing notice was mailed to all property owners within 350 feet of the subject property. The applicant sent a letter to the neighbors as well. As of this writing, he stated that the city has not received any written comments regarding the requested showcase event.

Administrator Young stated that Planning Director Pat Smith recommends approval of the Showcase Event Permit for Revision, LLC, for the property located at 20050 Lakeview Avenue to participate in the Artisan Home Tour, which is being held Friday, October 23 through Sunday, October 25. He added that the findings in support of the application are included in the staff report.

John Daly, representing Revision, LLC, stated that they plan on holding the event over just one weekend out of a possible three weekends included in the Artisan Home Tour. He stated that he appreciates the opportunity to use the City Hall parking lot. He asked if the Police could post no parking signs in the immediate area.

Chief Johnson stated that he we be willing to post no parking signs in the area.

Councilmember Jewett asked if walk-ups are allowed.

John Daly stated that walk-ups are allowed but tickets are required. He stated that neighbors are welcome to attend but need to purchase a ticket. He added that they are hoping that the bus shuttle will help to control the crowds.

Councilmember McNeill asked if they intend to meter the number of people in the house.

John Daly stated that a good question. He stated that Artisan Home Tour staff actually distributes the tickets.

Further discussion was held regarding adherence to COVID-19 safety requirements.

Councilmember Jewett asked about staff parking.

John Daly stated that two staff will be present and he will park his vehicle in the garage.

Motion by Councilmember Jewett to accept the recommendation and findings of the staff to approve the Showcase Event Permit for Revision, LLC, for the property located at 20050 Lakeview Avenue to participate in the Artisan Home Tour, as proposed. Seconded by Councilmember McNeill. Motion carried 4-0.

6. PUBLIC HEARING

A. Final Abatement Order at 18880 Minnetonka Blvd

Administrator Young stated that a voluntary abatement request was sent to Wayne Vigor, property owner at 18880 Minnetonka Blvd, informing him that he had sixty days to voluntarily remove two storage containers that are illegally stored on his property. He stated that Mr. Vigor is currently in violation of the following two sections of the Deephaven City Code:

- Deephaven Mun. Code § 535.01 declares that it is a public nuisance to maintain or permit “a condition which unreasonably annoys, disrupts, injures, or endangers the safety, health, morals, comfort, or repose of any considerable number of members of the public.”
- Deephaven Mun. Code § 535.04(cc) declares the keeping of storage containers outside on residential property for more than sixty (60) days over a twelve (12) month period to be a public nuisance affecting public peace and safety.

He noted that the City has received complaints from numerous residents about the disruptive nature of the storage containers on his property.

Administrator Young stated that following the lack of response to the voluntary abatement request, the Council authorized a public hearing to be held on September 8, 2002 to allow Mr. Vigor to appear to present his reasons for why the storage sheds haven't been removed and to issue Mr. Vigor a final abatement order. The final abatement order was mailed and hand-delivered to Mr. Vigor on August 18, 2020. The order requires the two storage containers, including any contents in the containers, to be removed by September 18, 2020. If the containers are not removed, the City will store the containers on City property for up to ninety (90) days following the removal of the containers, after which the City will sell the containers.

He stated that any funds that the City receives from the sale of the containers will be used to offset the City's cost of removing the containers from the property, with any excess amount refunded to Mr. Vigor. If any of Mr. Vigor's belongings are left in the containers when the City removes them from your property, the City will place those items in a secure storage facility for up to one hundred and eighty (180) days following removal, after which the City will donate to charity any items that have not been reclaimed.

He stated that following the public hearing, the Council has the option to rescind the abatement order, extend the timelines of the abatement order, or authorize proceeding with the abatement order.

Acting Mayor Erickson called the public hearing to order at 7:13 p.m. Hearing no comments, the public hearing was declared closed at 7:14 p.m.

Councilmember Carlson stated that he supports proceeding with the abatement order. He stated that Mr. Vigor had the opportunity to appear this evening and chose not to.

Councilmember McNeill agreed that we need to move forward.

Motion by Councilmember Carlson to proceed with the abatement order for the property at 18880 Minnetonka Blvd. Seconded by Councilmember McNeill. Motion carried 4-0.

7. **NEW BUSINESS**

A. **Discuss David Rova Reimbursement Request**

Administrator Young provided a brief overview of the drainage issues at 18725 Minnetonka Blvd resulting from the resurfacing of Minnetonka Blvd last year, Mr. Rova's request for reimbursement for damage that occurred to his property from those drainage issues, the recommendations of the Public Works Committee that initially reviewed Mr. Rova's request, and the submittal and ultimate denial by the LMCIT claims adjuster of Mr. Rova's request for reimbursement.

David Rova, 18725 Minnetonka Blvd, provided a short PowerPoint presentation. He stated that the results of the 2019 street improvement project had a negative impact on his property at the top of the driveway and into his property. He stated that he would like to try to come up with some solution to fix the deterioration of his property. He stated that the bump curb along the front of his property has caused problems as you have to ease into the curb in order to drive over it and it has created a huge amount of ice floe.

He stated that he first presented this issue 11 months ago to the Public Works Committee and continues to look for a permanent solution and reimbursement for damages to his property. He stated that the City is not liable but should take responsibility for this problem. He stated that he has lived at this property for four years and there is no indication of any past damage to the driveway or yard. He stated that 50% of water runoff had drained off through his terrace and 50% through his driveway. With the new high points in the road, it now directs water entirely into his driveway. He stated that the damaged areas include the bump curb, which presents a hazardous situation, the driveway edges and the erosion of the driveway at the bottom, and the need to rebuild his retaining wall.

He stated that this has led to unreasonable results that they have had to deal with. He stated that they have put their house on the market and believe that these issues have devalued their property. He stated that he is requesting reimbursement for previously paid services, correction of any additional damage, and mitigation of any further damage.

Discussion was held regarding the path of the drainage into his driveway.

Both Councilmember McNeill and Carlson recommended meeting with the City Engineer to find a potential solution to the drainage problem.

Acting Mayor Erickson agreed to meet with the engineer on site and revisit this issue at our September 21st meeting once we have recommendations from the engineer. He stated that we can discuss all other issues once we have a solution to the drainage problem.

B. Approve 2021 LMCC Budget

Administrator Young stated that the Joint Powers Agreement establishing the Lake Minnetonka Communications Commission requires all member cities to review and notify the LMCC of any action concerning the LMCC Budget within 30 days of receiving the budget.

He stated that this budget is not funded by tax dollars or municipal contributions, but rather through a cable company franchise fee that is paid annually to the LMCC. Additional funding for the LMCC is also provided through a public, educational, governmental (PEG) access fee for community use of the production studio.

He stated that the Lake Minnetonka Communications Commission (LMCC) provides the following services to the member cities within its Joint Powers Association (JPA):

- Franchise negotiations
- The production of public cable TV programming
- Enforcing the terms of the negotiated contract with Mediacom
- Handles all resident complaints regarding Mediacom services

Motion by Councilmember Carlson to approve the 2021 LMCC Budget as presented. Seconded by Councilmember Jewett. Motion carried 4-0.

C. Other

Discussion was held regarding a quote submitted by Schneider Excavating in the amount of \$30,100.00 to address some of the water runoff issues impacting residents abutting the Montgomerie / Hamilton Avenue drainage way through the installation of retention structures along the Montgomerie Avenue right-of-way and the property owned by Grace Lutheran Church.

Acting Mayor Erickson stated that this would address water problems on Montgomerie from the excess runoff coming from the Church parking lot. He stated that the Church is about to resurface their parking lot and this project will allow us to shape the flow to several filter basins. He provided a general overview of the project and noted that they hope to capture 80% of the water runoff from the Church's parking lot and considers this a good first step in addressing the drainage problems on Montgomerie Avenue.

Councilmember Carlson and McNeill reiterated the need for a more comprehensive engineering review of the drainage on Montgomerie and Hamilton Avenue.

Motion by Councilmember Carlson to approve the bid submitted by Schneider Excavating in the amount of \$30,100.00 to improve the retention of storm water on Montgomerie Avenue. Seconded by Councilmember McNeill. Motion carried 4-0.

Councilmember Jewett asked if Grace Lutheran Church was okay with the drainage plan.

Administrator Young stated that the Church Board has approved the plan.

8. UNFINISHED BUSINESS

A. Adopt Resolution No. 28-20, Approving 2020 Levy, Collectible in 2021

Administrator Young stated that Minnesota State Statutes requires the adoption of a preliminary tax levy on or before September 30, 2020. The final tax levy will be adopted following the Truth in Taxation hearing on December 7, 2020. The final tax levy cannot exceed the preliminary tax levy.

He stated that following the review of the 2021 General Fund Budget and the 2021 Capital Improvement Fund Budget at the last budget meeting, the Council indicated an interest in increasing the Capital Improvement Fund levy by \$50,000, thereby increasing the Capital Improvement Fund levy from \$400,000 to \$450,000. This would also increase the overall levy from \$2,814,895 to \$2,864,895.

He stated that it was Mayor Skrede's opinion that an additional \$50,000 was not warranted due to the fact that the proposed Bond Administration Fee of \$75,000 could be deposited in the Capital Improvement Fund, eliminating the need for the additional levy increase.

Acting Mayor Erickson agreed that the Bond Administration Fee could offset the need for an additional levy increase and voiced concern that the levy has already had to be increased significantly to offset the loss of Greenwood contract revenues.

Councilmember Carlson agreed noting that the proposed levy increase for next year, particularly following the significant levy increase for this year, was sufficient in his opinion.

Councilmember McNeill stated that she supports the additional \$50,000 levy increase because funding needs to be increased to fund the resurfacing of more city streets each year.

Motion by Councilmember Carlson to adopt Resolution No. 28-20, a Resolution Approving the 2020 levy, Collectible in 2021 in the amount of \$2,814,895. Motion seconded by Councilmember Jewett. Councilmember McNeill opposed. Motion carried 3-1.

B. Approve 6-Month Probationary Period for Pat Smith

Administrator Young stated that the City of Deephaven hired Pat Smith on March 9, 2020 to replace Zoning Coordinator Dale Cooney. Over the course of the past six months, it is obvious that Pat's experience and knowledge has resulted in a very smooth transition. Pat is very professional in his approach to the job, always willing to meet on-site with applicants, is always very careful to ensure that his recommendations are in line with stated requirements of the Zoning Code, he is very pleasant to staff and the public, and has an upbeat personality. As a result, Pat has become very well regarded by the public, staff and city officials from all three cities.

He stated that we are very fortunate to have hired Pat Smith. He brings a wealth of experience and keen intelligence that makes him a very good Zoning Coordinator.

Motion by Councilmember Jewett to approve the six-month probationary period of Pat Smith and authorize an increase in his hourly wage from \$30.30 per hour to \$32.87 per hour for the successful completion of his probationary status. Seconded by Councilmember McNeill. Motion carried 4-0.

B. Other

There was no other Unfinished Business this evening.

9. DEPARTMENT REPORTS

A. Police Department

Chief Johnson provided a summary of the August activity report for Council review.

B. Excelsior Fire District

Acting Mayor Erickson noted that there was nothing new to report on the Excelsior Fire District.

C. Public Works

Administrator Young provided an update on recent and upcoming public works activities.

D. Administration

Administrator Young provided a brief summary on the following items:

- 2020 CARES Funding for Election Administration
- Annual Comparison of Parking Permits Sold
- 2021 Budget Update
- October Newsletter

Administrator Young stated that the City of Deephaven will hold its annual Truth in Taxation hearing on Monday, December 7, 2020 at 7:00 p.m. at which time information on the 2021

budget and levy will be given and the public will be provided the opportunity to comment on the budget and levy.

10. ADJOURNMENT

Motion to adjourn by Councilmember Carlson, seconded by Councilmember McNeill. Motion carried 4-0. The meeting adjourned at 8:40 p.m.

Respectfully submitted,
Dana Young
City Administrator