CITY OF TONKA BAY
ITEM NO. 4A

MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
January 13, 2015

1. **CALL TO ORDER**
The regular semi-monthly meeting of the Tonka Bay City Council was called to order at 7:00 p.m.

2. **ROLL CALL**
Members present: Mayor De La Vega, Councilmembers Anderson, Ansari, Clapp and Grothe. Also present were City Administrator Kohlmann, City Attorney Penberthy, and Public Works Superintendent Bowman.

3. **APPROVAL OF AGENDA**
Anderson moved to approve the agenda as submitted. Clapp seconded the motion. Ayes 5. Motion carried.

4. **CONSENT AGENDA**
Anderson moved to approve the following consent agenda items:
A. Regular Meeting Minutes of December 9, 2014
B. Adopting Resolution Approving 2015 Appointments
C. Adopt Resolution Setting 2015 Water/Sewer Connection Fees
Clapp seconded the motion. Ayes 5. Motion carried.

5. **MATTERS FROM THE FLOOR**
A. **Chuck Wilson, 50 West Point Drive** – reported there is a coyote problem in their neighborhood. It has been sighted on several occasions, and residents are concerned about the danger to small dogs and children.

De La Vega stated there is nothing in the ordinance to control coyotes. Kohlmann stated it might be worth a call to Animal Control.

B. **Brent Brickman, 40 West Point Drive** – stated he had tried to contact Hennepin County Animal Control to find ways to contact.

Clapp suggested contacting the beaver trapper person. Wilson stated they have a pretty good idea where the den is located if that would help.

De La Vega stated this matter would be taken under advisement for staff to review.

6. SPECIAL BUSINESS

None

7. PUBLIC HEARINGS

A. Continued Variance Request – 55 West Point Avenue

Kohlmann discussed the public hearing process for the benefit of those in attendance.

Kelsey Johnson, City Planner reviewed the request for variances on 55 West Point Avenue. She discussed lot size and existing land use and zoning for the property. She reviewed an aerial photograph showing the shape and size of the property.

Johnson discussed the following variances requested: 1) a 12,510 square foot variance from the minimum lot area requirement; 2) a 17-foot variance from the required 25 foot rear yard setback; 3) a 26-foot variance from the minimum required lot width; 4) a 1.8 foot variance from the required finished floor elevation; and 5) a variance from the required 15-foot flood plain buffer around all extended structures.

She reviewed the existing use on the site and the proposal to reconstruct the garage while shifting it to the south. She discussed the consistency of the proposal with statutory requirements and whether it is in harmony with intent and purpose of ordinance, consistent with Comprehensive Plan, is a reasonable use of property, whether there are circumstances unique to the property and it maintains the essential character of the locality She indicated the property is fairly small and discussed its relationship to the impervious surface state statutes.

Johnson also discussed the consistency of the proposal with City requirements and stated the request will Not impact sun or air to neighboring properties, increase congestion (traffic study was conducted), endanger public safety, or diminish property values

Johnson discussed concerns with the finished floor elevation. She explained the Floodplain Ordinance established standards to protect public safety and property for all lands designated as floodplain within the City's jurisdiction. Section 3.2 states "no structure shall be constructed, located, extended, converted, repaired, maintained or structurally altered

without full compliance with the terms of the Ordinance....." She stated while the structure is not within a floodplain, our ordinance is written whereby the entire City is in a floodplain. Furthermore, Section 4.25 states in this case the rfpe is two feet above. Would be required to be at 933.5 feet. Elevation of proposed garage is not .

Johnson reviewed actions to consider: direct staff to prepare a resolution approving all requests and noted staff is not recommending this action; or another option would be to direct staff to prepare a resolution denying all requests based on the low floor elevation standpoint, or direct staff to prepare a resolution approving some of the requests and a resolution denying some of the requests. She noted the decision MUST be made prior to 2-24-15.

De La Vega opened the hearing for public comments. There were no comments, and the public hearing was closed.

Grothe stated we don't have the right to allow a variance on 4 and 5 because they are outside our jurisdiction. Penberthy indicated the State passed the statute and directed the DNR to set rules which had to be adopted by the City. The floor level cannot be below 933.5' by law.

De La Vega stated the West Point area is a very special area. He asked how anyone can rebuild what is there unless fill is brought in. Johnson recalled at 105 West Point Avenue it was torn down and completely reconstructed. Penberthy stated with a non-conforming structure, you could lift the structure, lay a new floor, and put it down again, and that would be allowed. The garage floor stays right where it is. He stated this is an option we have not had the opportunity to discuss with the property owner.

Grothe asked if we have approved 15-foot buffer variances before. Penberthy stated that has been approved. Grothe stated then it has been number four that is the issue.

Johnson noted there is a site on the property where the elevation can be met. Penberthy stated they are moving the footprint which creates a whole new structure.

De La Vega stated any time we increase the height within the floodplain, we logically create more of a problem unless a way to design the water

management is provided. Penberthy stated there is a water management plan that is required for the site. He stated the ability of the owner to get FEMA insurance is also an issue. He stated preservation of property values is also a concern. He stated FEMA could also disqualify the entire City in a worst case scenario.

Grothe felt the request should be denied since the one portion of the request cannot be approved. He didn't see the purpose in approving this. Clapp stated he would like to see some feedback from the owners. Penberthy stated if all the variance requests are denied, there is some time period before the owners can re-apply. They will have to start all over again. He stated the request could also be continued in order to get additional information from the owners.

De La Vega stated there is a deadline for this application. Johnson noted it is February 24, so there is still time.

Motion by Clapp to continue the variance request. Grothe seconded the motion. Motion carried 5-0.

B. Variance Request - 265 West Point Road

Kohlmann stated this is a public hearing and explained the public hearing process for the benefit of those present.

Kelsey Johnson, City Planner introduced the variance request for a single family property zoned R-1A Shoreland. She reviewed the property location in an aerial format and discussed the three variance requests for the following 1) a variance of 770 square feet from the minimum lot area requirement; 2) a 28.35 foot variance from the minimum required front yard setback of 76.35 feet; and 3) a 0.2 foot variance from the required 8 foot side yard setback;

She reviewed the existing use and highlighted the existing deck. She reviewed the proposal to add a small addition to the deck to accommodate a straight staircase rather than the existing spiral one. She explained why the variances are being requested.

- Johnson discussed the consistency of the proposal with statutory requirements noting it will continue to be a single family home. She indicated the request will be In harmony with intent and purpose of

ordinance, is consistent with Comprehensive Plan, is a reasonable use of property, there are circumstances unique to the property, and the request will maintain the essential character of the locality. She indicated it is a unique layout, and the applicant does not propose to expand the deck closer to the lake.

Johnson discussed the consistency of the proposal with City requirements and explained the request will not impact sun or air to neighboring properties, not increase congestion as there is no change in use proposed, not endanger public safety nor will it diminish property values.

Johnson stated staff is recommending approval based on the findings and conditions detailed in the staff report.

Grothe asked if the actual setback is to the existing deck. Johnson agreed noting it would not change. In response to a question, she noted we are over 25% hardcover, and the Engineer is satisfied with what is being proposed in the storm water management plan.

Grothe asked if the shed would change the setback amount. Johnson stated the shed will be an existing non-conformity, and nothing is being done with the shed so it does not apply. She stated she would review the ordinance as typically, you are allowed one water-related structure.

Penberthy stated in the past, the Council has required removal of sheds and pump houses on the lake to bring the property into conformity. The property was built not that long ago and the shed was already in existence and not required to be removed.

De La Vega opened the hearing for public comments.

Steve Hansen, builder representing the property owner stated they do not want to encroach anymore on the lake. The addition will make it easier for family members to access the lake. He stated they plan on landscaping after the construction and a plan could be made available if required. De La Vega noted we have an approved plan by the Engineer for storm water management.

De La Vega closed the public hearing.

Grothe stated this request doesn't appear to be affecting anything and is not impacting property owners on either side of them.

Motion by Anderson to direct staff to prepare a resolution of approval for the requested lot size, front yard and side yard variances based on the findings of fact listed in the report. The approval shall also include the conditions listed within the staff report. Clapp seconded the motion. Ayes – Ansari, Anderson, Clapp, De La Vega and Grothe. Motion carried 5-0.

8. OLD BUSINESS

A. Deer-Turkey Survey Results

Kohlmann reviewed the results of the deer-turkey surveys.

De La Vega discussed the purpose of the surveys. He stated it is clear (2:1) that most people don't think it is an issue. He discussed the results of feeding vs. removing. He stated we could take action, but from his perspective it would be counter to what the community is requesting.

Ansari stated it may be the coyote is attracted to the areas where there is an abundance of wildlife.

De La Vega thought perhaps the neighborhood associations could enact some kind of regulations for their specific neighborhoods. Penberthy stated there may be some areas where there are no associations. In such cases, committees might be formed to gather information and report back to the City Council.

Grothe stated we had discussed having a flyover to count the population. De La Vega stated he believed we should go ahead with that.

Grothe distributed a copy of what can be done to repel deer. He suggested some of the information be in the next newsletter. De La Vega stated not everything can be solved with ordinances and education is a key element. Clapp asked how a regulation prohibiting deer could be enforced.

De La Vega suggested we continue with the aerial survey although more snow is needed. We could also look at some feeding ordinances.

9. NEW BUSINESS

A. Set Board of Appeal Meeting Date

Motion by Anderson to set Wednesday, April 8, 2015 at 6:30 p.m. as the Board of Appeal meeting date. Clapp seconded the motion. Motion carried 5-0.

B. Temporary Sign Permit Request – Salonspa

Kohlmann stated this is a regular request from Sanctuary Salonspa for a temporary sign permit.

Motion by Clapp to approve the temporary sign permit request for Sanctuary Salonspa. Anderson seconded the motion. Motion carried 5-0.

C. Temporary Sign Permit Request – Virginia Lord

Kohlmann stated this permit request is in conjunction with the Arctic Fever event on Saturday to publicize the coat drive.

Motion by Clapp to approve the temporary sign permit for Virginia Lord. Anderson seconded the motion. Motion carried 5-0.

D. Skid Loader

Bowman reviewed the request for a skid loader. Low quote was from Lano Equipment in the amount of $38,389 which exceeds the CIP by $389. Council discussed requiring the approved quote be lowered by $389 to come within the budgeted amount. They also discussed when bids are required.

Motion by Anderson to approve the quote from Lano Equipment in the amount of $22,000 for a skid loader. Clapp seconded the motion. Motion carried 5-0.

Robin reported on the recent water main break.

10. MATTERS FROM THE FLOOR

None

11. REPORTS

A. Administrator – Kohlmann stated he is drafting a policy for I-pads and a brief tutorial for the I-pads will be held after the meeting.

B. Anderson - Finance, Fire Lanes and Public Access, Technology – no report

C. Ansari – EFD, Sanitation and Recycling, Southshore Community Center – Ansari urged Councilmembers to attend the Arctic Fever events this weekend. Clapp stated he would like to have the Council carve a snow sculpture next year.

D. Grothe – Building Inspection, Municipal Buildings and Grounds, LMCC – no report

E. Clapp - Parks and Playgrounds, LMCD, Commercial Marinas, Municipal Docks – Clapp reported on the recent Tapping into History presentation focusing on Tonka Bay history which was very well attended.

F. Attorney's Report – no report

G. De La Vega - Public Works, SLMPD, Administration – De La Vega stated he will be attending a Mayors Forum on Wednesday, January 21 and asked for input on timely topics. He also stated the Coordinating Committee will be interviewing interim police chief candidates on Wednesday, January 14.

12. ADJOURNMENT

There being no further business, it was moved by Anderson to adjourn the meeting at 8:35 p.m. Clapp seconded the motion. Ayes 5. Motion carried.

Attest:

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Clerk