

## ITEM NO. 4A

### MINUTES TONKA BAY CITY COUNCIL REGULAR MEETING October 25, 2016

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 Crawford and City Attorney Biggerstaff.

3. APPROVAL OF AGENDA

Anderson moved to approve the agenda as submitted. Ansari seconded the motion. Ayes 5. Motion carried.

4. CONSENT AGENDA

Anderson moved to approve the following consent agenda items:

- A. Regular Meeting Minutes of October 11, 2016
- B. Accounts Payable
- C. Quarterly Building Activity Report

Grothe seconded the motion. Ayes 5. Motion carried.

5. MATTERS FROM THE FLOOR

Brad and Donna Olson, 4436 Manitou Road distributed a handout relating to an issue with a neighbor and a property fencing/planting. He discussed his attempts to resolve this issue with the neighbor and City staff. He believed the neighbors are in violation of City Code. He asked the City Council rectify this by having the property owner abide by the Code and take down the arborvitae.

De La Vega stated we would be reviewing the ordinance relating to this issue later this evening. He stated the spirit of the ordinance has always been to reduce or eliminate the problems of obstructing views to the lake.

Olson stated the neighbors are also concerned about a precedent being set.

De La Vega stated we would get this straightened out for him shortly.

Crawford stated the property owners did remove two of the arborvitae on the site earlier this year.

6. SPECIAL BUSINESS

None

7. PUBLIC HEARINGS

A. Variance – Peterson-Loberg, 85 Lakeview Ave

Erin Perdu, City Planner reviewed the request for variances from lot size, front yard setback, and rear yard setback. She indicated administrative approval would be required for hardcover. She reviewed the footprint of the existing home.

Perdu reviewed proposed conditions for the request. She reviewed criteria for approval of variances. She stated the unique circumstance for the property is the unique shape of the lot. She stated staff recommended approval of the request.

Grothe asked what the setback would be if the dock weren't there. Perdu indicated it would still need a variance for the setback. Grothe discussed the unique shape of the lot and setback requirements. He asked if the FAR calculation included the basement. Perdu stated it did not.

Clapp stated the sidewalk looked closer than the corner of the porch to the road. Perdu indicated that it was.

Ansari asked if the garage would be exposed to flooding given its location. Perdu stated the City Engineer reviewed the plan and found it met the elevation requirement.

Clapp asked where the hardcover was. Perdu stated it is less than thirty percent and would be approved at the administrative level.

De La Vega opened the hearing for public hearing for comments.

Doug Babcock, 75 Lakeview Avenue asked if the dock would be included in the approval and if it would be a ground-level deck. He stated the garage blocks his view of the lake and maybe it could be moved forward about six to eight feet.

Grothe stated they are asking for the variance from the lakeside which would include the deck. Babcock stated staff did not include that in the hardcover calculation which would need to be changed.

Joshua Arnold, 50 Lakeview Avenue discussed his concerns about diminishing lake views over the years. He urged the Council to make sure the setbacks are not changed and properties are kept as they currently exist.

Christine Loberg, 85 Lakeview Avenue discussed their plan to build a modest plan that would be extremely respectful to the neighbors. They purposely moved the home so it would be more on the public side and not encroach on the privacy of the neighbors.

David Peterson, 85 Lakeview Avenue discussed variance requests. He stated they want to have the option to construct a deck at some point.

Charles Warren, 90 Lakeview Avenue stated he did not object to what was being proposed.

Arnold asked how many outbuildings are allowed on the property. Perdu stated two are allowed.

De La Vega closed the public hearing.

Grothe stated he saw the point about moving the garage forward as it would still keep it within setbacks. He didn't see a problem with the rear setback request. He asked if the deck would be raised to the first floor. Peterson stated it would be level with the first floor line. Grothe asked if the deck was counted into the impervious calculation. Perdu stated decks are not included. Crawford stated even if it were, it would not cause the hardcover calculation to go over thirty percent. Crawford stated she would follow up on this with the City Engineer.

Council discussed the garage location. Babcock suggested a possible location. Peterson stated they took hours trying to come up with a plan. The deck would be very simple. He indicated they don't want to lose any of the driveway space.

Steve Sauber, Country Joe Homes discussed the garage location. He stated the driveway slope would be increased as a result.

Perdu stated the garage location is not part of the variance request this evening and is within the building footprint.

Grothe asked what the actual proposed first floor elevation would be. Sauber stated it would be 944.04'.

Grothe stated the basement appears to be another story rather than a basement considering the average from floor line to grade. He asked if this would be considered a 3-story building. Crawford clarified the definition. Perdu explained why it would not be considered a 3-story building.

De La Vega stated this is a tough lot and one of the most unique he has had to deal with.

**Anderson moved to direct staff to prepare Resolution 16-62 approving the variance requests for 85 Lakeview Avenue. Clapp seconded the motion. Ayes 5. Motion carried.**

**B. Zoning Ordinance Amendment – Section 1040 Floodplain**

Perdu discussed the recent changes to floodplain maps which require the City to amend its floodplain ordinance. She presented a graphic showing how the floodway and flood fringe are all part of the floodplain area.

De La Vega stated he understood the entire City is part of the floodplain. Perdu agreed. She stated properties shown on the map are subject to the regulations in the floodplain overlay. Crawford stated from a zoning and land use standpoint, we make sure people build beyond the floodplain.

Perdu discussed restrictions and conditions for how things could be constructed. There would also be criteria for approving variances. Based on findings of fact, staff recommended a public hearing be held and the ordinance be approved. She indicated the DNR has approved our ordinance language following inclusion of their recommended additions.

De La Vega asked why we didn't just accept their ordinance by reference. Perdu stated they provide a model ordinance which we take and incorporate into our existing ordinance. Essentially, we accomplished the same thing.

De La Vega asked if we should use a similar definition of basement in our Code. Perdu stated we could make the change.

Biggerstaff stated the DNR sends a model ordinance which is modeled after Federal requirements. He stated we may want to propose at some point in the

future new language in the floodplain ordinance which we could propose to the DNR for approval.

De La Vega stated it appeared there are several new requirements for variance approval.

De La Vega opened the public hearing.

Babcock suggested the basement definition be adopted only for structures in the floodplain.

John Reiman, 130 Birch Bluff Road discussed problems with flood insurance. He stated he had questions about the flood zone maps and what zone his property would fall under.

De La Vega closed the public hearing.

Anderson moved to approve Ordinance 2016-04. Grothe seconded the motion. Ayes 5. Motion carried. Anderson moved to adopt Resolution 16-63. Grothe seconded the motion. Ayes – Anderson, Ansari, Clapp, De La Vega and Grothe. Ayes 5. Motion carried.

Crawford invited Mr. Reiman to come to City Hall to see the maps, and staff could help with the amendment process if needed.

8. **OLD BUSINESS**

A. **Zoning Ordinance Amendments Sections 1002 and 1011**

Council reviewed the draft version of zoning ordinance amendments.

De La Vega stated the basement definition is still open for discussion in order to tie it in with the new floodplain ordinance.

Grothe asked if the screening definition should be reviewed. Councilmembers discussed the definition. Perdu stated this definition deals with commercial uses or trash containers. She stated it would be possible to use another word to be more specific in other sections where screening would be addressed. Biggerstaff suggested consideration be given to using “visual impairment”. De La Vega agreed and stated screening would remain, and we would work on a visual impairment definition.

Clapp stated the term metrological may be misspelled, and meteorological

might be the correct word.

De La Vega stated he would like to see a definition for visual impairment. We need to build an ordinance around it. He didn't think we could overdo the importance of it.

Grothe stated we want it that people could visually see the lake. Councilmembers discussed whether the definition would apply more to lakeshore residents. Staff was directed to create a visual impairment definition.

De La Vega asked Biggerstaff for his input on the definition. Biggerstaff stated this would be unique, but taking it from the fence section would be the new trend. The first step would be to define what it is we are regulating. He stated he could develop some ideas to consider.

Council viewed videos regarding alternative energy systems.

De La Vega stated the solar element should be dealt with first while other energy systems could wait. He stated the solar technology is there and not much has changed. He stated the open question would be how to deal with it. He stated he would like to craft a position that an ordinance could be created from. He stated there should be some minimum level of service before they could be installed.

Council discussed solar equipment. Grothe believed that solar devices should be installed on existing structures. Council also discussed structure size and location.

De La Vega was concerned about reflectivity of solar devices. He stated we should begin discussions with the St. Anthony ordinance. Clapp suggested drafting wind and solar at the same time. De La Vega stated the wind technology is still in development. Grothe stated the St. Anthony ordinance is specific to solar energy.

Ansari discussed her concerns about setting a precedent with the ordinance language or creating a bias. Biggerstaff stated he was unaware of any litigation where a city was sued for not allowing certain kinds of technology.

Council discussed self-regulation such as when roof size would not permit some of the current technology.

9. NEW BUSINESS

None

10. MATTERS FROM THE FLOOR

None

11. REPORTS

A. Administrator – Crawford stated revenue and expenditure reports were provided for review for the third quarter.

B. Anderson - Finance, Fire Lanes and Public Access, Technology  
Anderson asked why the boat slip rental was \$800 short. Crawford stated she could follow-up on this. She stated we could have budgeted more than the amount received.

C. Ansari – EFD, Sanitation and Recycling, Southshore Community Center  
Ansari asked about the possibility of setting up a community fund. Crawford stated that would be discussed during the budget work session.

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

E. Clapp - Parks and Playgrounds, LMCD, Commercial Marinas, Municipal Docks – no report

F. Attorney's Report – no report

G. De La Vega - Public Works, SLMPD, Administration – no report

12. ADJOURNMENT

There being no further business, it was moved by to adjourn the meeting at 9:10 p.m. seconded the motion. Ayes 5. Motion carried.

Attest:

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Clerk