

CITY OF TONKA BAY ITEM NO. 4B

MINUTES TONKA BAY CITY COUNCIL REGULAR MEETING October 28, 2014

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 and City Attorney Penberthy.

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 consent agenda as presented approving:

- A. Regular Meeting Minutes of October 14, 2014 as amended: Page 6, “De La Vega stated instead of reducing the City contributions, a check would be sent to the City; Page 8, change “ordinance” to “resolution”. Penberthy suggested not approving the minutes and bring it back after listening to the “tape”. Minutes were not approved as part of this motion.
 - B. Financial Report
 - C. Resolution 14-37 – 89 and 90 Wildhurst Road Simple Subdivision and Lot Combination
 - D. Resolution 14-38 – 90 Wildhurst Road Simple Subdivision
- Clapp seconded the motion. Ayes 5. Motion carried.

5. **MATTERS FROM THE FLOOR**

None

6. **SPECIAL BUSINESS**

A. **Hennepin County Commissioner Jan Callison - Update**

Callison updated the City Council on recent County activity. She indicated a slight increase is proposed for the property tax levy. She stated the new library opened in Excelsior recently, and circulation has increased fifty percent as a result. The new dispatch facility will be opening soon. She

stated she received the recommendations from the Shoreline Safety Committee. The County has discussed putting up a temporary fence along the road but would talk to the City prior to any final decision. She distributed a copy of a pamphlet discussing homelessness and available programming as well as a sheet discussing health.

Grothe stated his main concerns related to the fishing issue along Manitou Road and hoped the County would place signs indicating “No Stopping” during the fishing season. Callison stated it would be dependent on the lake level.

Clapp asked if there is any news about the bridge that came in over budget. Callison stated they are looking into other safety measures. She noted it is a Three Rivers Park District project. Clapp asked if there was any update on a trail along County Road 19. Callison stated she would check into that. De La Vega asked if the Narrows Bridge would be maintained soon. Callison stated she didn’t have any information on that and would check.

7. **PUBLIC HEARINGS**

None

8. **OLD BUSINESS**

A. **Woodpecker Ridge Road – Berm**

Kohlmann stated staff has contacted MCWD for clarification of the process to re-establish the berm on Woodpecker Ridge Road.

Clapp stated there is a possibility erosion control is needed. Kohlmann stated it would be clarified once a final plan is submitted. Clapp mentioned the possible need for a S.W.P.P. plan.

Grothe asked about future maintenance and if it can be done. He asked if there is some way to put in a wall or a board to be set at a level so we know if it is settling. Kohlmann stated it can be tracked. He also indicated every time more fill is added, a permit will be required.

De La Vega stated he had asked staff to submit this project to FEMA to see if it would qualify for repair costs as it was damaged due to flooding. Kohlmann stated we did get a sizable reimbursement for sewers impacted by the flooding, and the berm cost was denied.

De La Vega asked if something more permanent would be funded. He

stated it is an important part of what we do to prevent flooding. He also had a question about timing. He asked if there is the possibility the berm elevation will change again between now and when it is reconstructed in the spring. Clapp stated there will be a freeze/thaw cycle that will impact the berm. Kohlmann reviewed the timeline for reconstruction.

Clapp asked how long the design phase would take. Kohlmann stated it would be fairly quickly since much of the design work was completed the first time around.

De La Vega asked about funding. Penberthy stated the original berm was specially assessed. He stated the maintenance should also be specially assessed. Grothe asked how much involvement the residents should have for this. Penberthy stated if you are going through the special assessment procedure, there are significant costs involved just to go through the process. The procedure costs would be as much or more than the berm itself. He expected the residents would not support paying for it 100%. De La Vega believed a precedent was set when it was specially assessed to build the berm to begin with.

Judd Brackett, 125 Woodpecker Ridge Road stated when it was built, this was the only street that the residents had paid for. He stated his share was close to \$30,000. The residents have made quite an investment in the street. He believed there should be some kind of document that discussed the future maintenance. He asked Clapp for clarification of what a S.W.P.P. plan involves. Clapp discussed the requirements which will be included in the planning costs.

Clapp stated this would cost around \$13,000 - \$14,000 for this work to be done.

De La Vega stated his gut feeling is this needs to be done. He stated for the future he would like to know the definition between maintenance and repair. He believed this would need to be done again over time.

Penberthy discussed the steps that would need to be taken prior to a special assessment being levied and the importance of following the special assessment procedure per State law.

Penberthy suggested coming to the next meeting with the special assessment procedures. De La Vega asked for thoughts on pursuing this

option.

Clapp stated we are definitely out of time to get the work done this year. It is definitely a next year project.

Grothe stated putting it off until spring shouldn't be that big of an issue as we are adjusting an existing plan. He was mixed on the special assessment idea and whether the homeowners should pay the entire cost.

Byron Wieberdinck, 195 Woodpecker Ridge Road asked for clarification of whether the city should be accountable for the cost, if it was due to lack of maintenance, and if it is repairs or maintenance which would determine who would pay. He was confused about the fact that road repairs throughout the community are part of our regular tax bill.

Penberthy stated the third possibility is this was a historic flood.

De La Vega stated part of our responsibility is securing safety for our residents. Whether this is a repair needs to be hammered home, not only this time, but for the future as well. And whether the flooding caused this damage. He asked for documentation of what WSB would charge for the assessment process.

Clapp suggested looking at other options such as sheet pilings. Kohlmann stated there are an unlimited number of possibilities of what can be done out there. Anything done will require a permit from MCWD.

Grothe suggested getting information from WSB about other options and the costs involved as well as how long it will last.

De La Vega stated the berm is more of a natural solution.

Brackett believed function is more important than the aesthetics.

9. NEW BUSINESS

A. Water Hookup – Shorewood

Kohlmann reviewed a request from Xcel Energy to hook up to city water. A resolution has been prepared for adoption as well as the City of Shorewood's approval.

Clapp stated it appeared to him they have already hooked up. A member of the audience stated the water connection has not been made yet.

De La Vega asked if the fees are based on a residential hookup and if there is a difference. Kohlmann stated there is one fee for all connections, whether residential or commercial.

It was noted it is exclusively for the fire suppression system. The sanitary sewer connection is through Shorewood.

Grothe asked if there is still a billing for this use. Kohlmann stated there is still a quarterly billing for this use. Grothe asked what kind of recourse there is if there isn't a payment. Councilmembers discussed the possibilities.

A member of the audience stated there is a procedure in the agreement that outlines unpaid bills. Shorewood would be responsible to recoup the costs of any unpaid bills.

Grothe asked if there is potential for more connections to our system from outside Tonka Bay in the future. Kohlmann stated we are not at capacity right now.

Anderson moved to adopt:

RESOLUTION NO. 14-39

**A RESOLUTION APPROVING REQUEST FOR HOOKUP
TO CITY OF TONKA BAY WATER SERVICES –
XCEL ENERGY, 5509 COUNTY ROAD 19, SHOREWOOD**

Clapp seconded the motion. Ayes – De La Vega, Ansari, Anderson, Clapp and Grothe. Motion carried.

B. Southshore Center – Letter from Shorewood

Kohlmann reviewed the request from Shorewood asking Tonka Bay to withdraw from the Southshore Center.

De La Vega stated we are the first city to consider this request.

Grothe asked what difference it makes whether we are a part of this or not.

Basically, Shorewood is paying for the operation now. He stated it makes it sound like our investment goes down to zero.

Ansari agreed with Grothe's comments.

Clapp also agreed with Grothe's comments.

De La Vega commented on the Sun Sailor article which indicated there is not an agreement to operate the Center. He reviewed his conversation with Mayor Zerby of Shorewood who was misinformed. He discussed the terms of the current agreement. He believed the document gives Shorewood everything they want without checking with the other cities. He stated as far as he can tell, we are still bound by this document. He asked why they want us to exercise Section 6 now. If you read it carefully, any city may terminate upon thirty days written notice. A withdrawing city will not have any right to comment on the future terms of the agreement.

Penberthy discussed the history of the Center. He believed we should take time to digest this and come back with thoughts and compose a letter. He stated an option is to offer our equity for sale. If we focus on our equity, we will never see it. He didn't think Shorewood has the authority to deduct capital improvements from our equity.

De La Vega stated Shorewood is at fifty percent ownership but they are still one of five votes. They have the right to ask, but there is no precedent in the agreement that says so. He believed it is not in our best interest to lose our place at the table unless and until we receive our original investment.

Councilmembers discussed the newspaper article.

De La Vega directed staff to draft a letter for review. Once that is put together, we will approve a response. Grothe suggested it also be sent to the other member cities.

10. MATTERS FROM THE FLOOR

None

11. REPORTS

A. Administrator – Kohlmann stated we have received \$33,000 from FEMA and an I & I grant of \$25,000 from Met Council. He reviewed revenues and expenditures for the third quarter. He noted some of the percentages are

high. De La Vega stated some of them are timing issues. He believed there would be a surplus for the end of the year.

- B. **Anderson - Finance, Fire Lanes and Public Access, Technology** – no report
- C. **Ansari – EFD, Sanitation and Recycling, Southshore Community Center** – no report
- 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 Anderson to adjourn the meeting at 8:24 p.m. Clapp seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk