

CITY OF TONKA BAY ITEM NO. 4B

MINUTES TONKA BAY CITY COUNCIL REGULAR MEETING August 11, 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 Crawford, City Attorney Penberthy, and Public Works Superintendent Bowman.

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 July 28, 2015 as amended: Page 3, Item 8B, 5th paragraph, change "strong" to "strongly opinioned".

Clapp seconded the motion. Ayes 5. Motion carried.

5. **MATTERS FROM THE FLOOR**

None

6. **SPECIAL BUSINESS**

None

7. **PUBLIC HEARINGS**

A. **Consider Variance Requests from Mike and Melinda Pfohl, 165 Woodpecker Ridge Road**

Crawford introduced the City Planner.

Erin Perdu, City Planner reviewed the lot location and size and noted the Comp Plan guides the use as single family. She noted on the aerial of the lot identifying the location on Woodpecker Ridge Road. She discussed the variance requests for a 4 foot variance from the side and a 1.4 foot variance from the front yard. A variance to change a non-conforming structure is also required. She noted on the survey the footprint of the

existing home. She stated the proposed deck will wrap around on the lake side and along the south side of the property. The corner of the deck is the closest point to the lake. She reviewed the criteria for approval of a variance and noted the request meets all the requirements. The proposal would maintain the existing character of the neighborhood. Staff recommends approval of the variance requests. She noted the condition for a watershed approval for a permit has been removed as that is not required.

Grothe asked what the height of the deck off the ground is. It was answered from the audience and was inaudible. Perdu added it is above the hardcover threshold.

De La Vega asked for comments from the audience. There were none and he brought back the discussion to the Council.

Grothe stated he didn't have a problem with the request, but he would prefer that the deck be wider than the seven feet proposed. He suggested eight feet. He indicated he would disagree with the way the 62.9 measurement is calculated.

Clapp asked if the paver walkway has been moved already. A member of the audience indicated that was correct.

Anderson moved to direct staff to prepare Resolution 15-14 approving the three variance requests for 165 Woodpecker Ridge Road subject to the conditions in the staff report as amended. Grothe seconded the motion. Ayes – Anderson, Ansari, De La Vega, Grothe and Clapp. Motion carried.

B. Consider Variance and CUP Requests from Michael and Cynthia Schwartz, 195 Mound Ave

Crawford stated this is a public hearing for a variance request as well as a conditional use permit and introduced the City Planner. De La Vega stated he has a business relationship with Southview Design but felt it would not impact any decision he would be making.

Erin Perdu, City Planner reviewed the lot location, size, and zoning district for this property. She reviewed an aerial of the lot identifying the location on Mound Avenue. She reviewed the variance to allow for deck steps because they are a structure more than nine inches above the ground. A conditional use permit is also required in order to construct

boulder retaining walls. She reviewed a copy of the plan showing the boulder retaining walls on the site. She also highlighted the location of the proposed deck steps. She reviewed a cross-section view of the project.

Perdu reviewed the criteria for approval of the variance for the deck steps and indicated the request will meet all the requirements. She also reviewed the criteria for approval of the conditional use permit. She indicated the grade change on the property is the reason why the boulder walls would be an appropriate use. She reviewed the requirements for approval of a CUP within a shoreland zone and recommended approval of the request with conditions.

Grothe discussed the location of the rip rap on the site.

De La Vega asked if there was an existing wall there now. Grothe noted there is a wall now. De La Vega asked if it would be removed. It was noted from the audience that the existing steps will remain while the timbers would be removed.

Grothe asked what materials would be used for the steps. Tim Johnson, Southview Design noted cedar steps will be constructed to match what is currently there. He also responded to a question from Grothe about the kind of boulders which will be used.

Clapp asked if MCWD has given their approval. Johnson replied they have approved this request.

De La Vega asked the audience if there were any other questions. There were none, and De La Vega brought the discussion back to the Council.

Grothe asked if a future project, such as a deck, would be under this request. De La Vega indicated a new application would be required. Penberthy stated another condition could be added that no additional structures could be added under this approval.

De La Vega asked if there were any comments from the neighbors. Crawford stated there were none, and asked that the public hearing be open. Hearing no comments, De La Vega closed the public hearing

Anderson moved to direct staff to prepare Resolution 15-15 approving the variance and CUP requests for 195 Mound Avenue subject to conditions indicated in the staff report. Clapp seconded the motion. Ayes – Anderson, Ansari, Clapp, De La Vega and Grothe. Motion carried.

C. First Reading – Amend Section 600, Liquor Ordinance

Crawford stated Unmapped Brewing Company is requesting Tonka Bay to allow a brewery. To accommodate this request, Section 600 would have to be revised. Staff and the City Attorney have reviewed proposed changes. Language will also be included to add an exclusive liquor store and a temporary license.

J. D. Park, Unmapped Brewing Company discussed the vision for his business and the plans for his business which will be located at the end of Tonka Village Shopping Center. He also reviewed his and his wife's background. He stated breweries are more of a community gathering place. He stated there aren't any plans so far showing what the space will look like. He was also anxious to be active in the community and provide community support. He asked the Council to consider approving this request.

De La Vega stated the ordinance has nothing to do with this particular business. We need to decide based on community standards we want to have in our ordinances.

De La Vega asked why there is a reason why the number of licenses allowed should be eliminated. He cited specific examples. Crawford stated the thought behind it was modeled on other cities. De La Vega stated if they are all removed, we would have more flexibility. Penberthy stated some of them are limited by state statute.

Crawford reviewed other changes proposed. Items to be added are underlined and those to be removed have strikethroughs.

Penberthy pointed out Section 600.09, Subd. 2 which addresses the addition of approval by the City. Crawford stated the Council has not reviewed the special event permit process which will be proposed at a future meeting.

Penberthy stated an issue could be and something to consider is if alcohol is allowed in a hockey rink, would it be allowed in the parking lot. Council discussed special events.

Grothe stated it bothers him to limit licenses in the ordinance. He was open to saying we can change the language to allow more.

De La Vega opened the hearing for public comments.

Phil Roe, 85 Birch Bluff Road stated he supported the brewery. He suggested an Oktoberfest event be allowed at the north end of the property. He asked if it would be considered under the special event permitting. De La Vega indicated it would. Crawford stated Unmapped is not ready to open by October. Roe stated it needs to be considered. Crawford stated all applications would come before the City Council, not just the Administrator. De La Vega stated we've never had a special event permitting process, and it is long overdue.

Chad Sudheim, 60 Florence Drive stated the brewery in Excelsior is very welcoming. He supported the brewery idea.

De La Vega closed the public hearing.

De La Vega reminded everyone that we are talking about the ordinance tonight. He stated this is the first reading and the second reading will be at the next meeting with more detailed recommendations.

D. First Reading – Amend Section 1024, C-2 General Commercial Zoning District

Crawford stated Unmapped Brewing's request will also require an amendment to Section 1024. A brewery is not allowed under the current ordinance. Changes have been reviewed by staff and the City Attorney and are under consideration tonight.

De La Vega asked the Council if they had any issues or concerns.

Grothe stated he didn't have an issue as it is a blend between an off sale and a restaurant. His biggest concern is the parking. He stated it is pushing the limits on available parking. His only concern is that there will be a proof of parking provided. He also asked how many growlers a barrel can make. Park indicated a barrel is two kegs. Grothe was concerned about limiting the

number of barrels. Crawford stated that number is based on other cities' ordinances. De La Vega stated he didn't want to see limits placed. Penberthy stated there are limitations in the state statutes.

Council discussed parking requirements. De La Vega reminded the Council that this is an ordinance amendment under consideration.

Kristin Viger, 45 Pleasant Avenue stated hours of operation need to be considered as well.

Council reviewed the proposed amendment to the ordinance. The second reading will be continued to the next meeting.

8. OLD BUSINESS

A. Speed Trailer Update

Crawford stated the City Council reviewed speed study results provided by the SLMPD at their last meeting. Following this review, the Council had the following additional questions:

1. What percentage of the total in each direction is over 30 mph, and could we have the real numbers. Crawford indicated those numbers are provided in the packet.
2. Does the trailer pick up walkers, runners and cyclists: Crawford stated the trailer does not pick up walkers or runners but does pick up cyclists over eight miles per hour.
3. Could the eight miles per hour be an error? Crawford stated the numbers are valid as that is the minimum speed the trailer picks up. We can have it set higher or lower if we so desire.

De La Vega noted there is a two percent rate of excess speed on Birch Bluff Road. On Pleasant Avenue, there is a 7.8% percent rate over 30 mph. He stated it is significantly more of an issue on Pleasant Avenue. He stated Council discussed requesting another round of data collection in October. He noted an additional police officer will be added to SLMPD, and the department will be in a position to deal with traffic issues more efficiently. He asked the audience for their comments.

Kristin Viger, 45 Pleasant Avenue noted the trailer also was picking up traffic that wasn't on Pleasant Avenue at all. De La Vega stated we might

want to consider moving the location of the trailer. Viger stated just having the visual would slow down vehicles. She suggested adding better signage as there is a bus stop there.

Ansari asked if the police ever said anything about a margin of error. De La Vega stated they are not infallible.

Phil Roe, 85 Birch Bluff Road stated he has changed his point of view after seeing these numbers. He noted half of the vehicles on Pleasant Avenue are going over the speed limit. He believed we are condoning it if we say over 20 mph is okay. He suggested lowering the speed limit to 15 mph. He stated Minnetonka Beach has had success with portable speed bumps. He looked forward to see what the numbers will be in October. He asked the Council to consider using the portable speed bumps.

Council discussed speed enforcement concerns.

Grothe discussed posting signage and its lack of effectiveness after a period of time. He wasn't sure if there was a permanent solution.

De La Vega stated the solution to this at this time is to get additional data.

B. EFD 2016 Budget

Ansari stated the EFD Board approved the proposed budget.

Crawford stated the 2016 budget reflects a 2.79% increase over the 2015 budget. Tonka Bay's share of the budget is \$234,134, which is a 1.05% increase over the 2015 share.

De La Vega stated he attended the review session and walked away with a feeling that all his questions were answered.

Ansari believed having the mayors at the review session helped to speed up the review process.

Ansari moved to adopt: Resolution No. 15-16, A Resolution Approving 2016 Excelsior Fire District Budget and Capital Equipment Plan. Anderson seconded the motion. Ayes –Ansari, Anderson, Clapp, De La Vega and Grothe. Motion carried.

C. City Hall Fence

Crawford stated at the last City Council meeting, staff was directed to look into getting information on low maintenance vinyl fencing and staff time to install the fencing. She stated white and tan options have been provided, and staff would recommend a tan option because of all the tree sap so it will look as nice as possible for as long as possible.

Grothe noted there is a \$7200 estimate for staff time. He asked if Public Works will have time to remove the fencing. Crawford stated it would have to be done in the fall.

Clapp stated the numbers aren't adding up for the white and tan estimates.

Clapp preferred the tan fencing.

De La Vega asked if there is money budgeted for this year. Crawford stated there is a balance from the budget for the air dryer.

De La Vega asked if there is a preference to have staff install the fence or a contractor. Clapp stated he would prefer it be done by a contractor to give Public Works time to do other projects.

Council reviewed the bid amount and rolling gate. Crawford stated our City Code prohibits an electric gate.

This item will return to the next Council meeting.

9. NEW BUSINESS

A. Tort Limits

Crawford stated this item is reviewed annually. Staff is looking for a motion for the City Administrator recommending that the City not waive monetary limits on statutory requirements for tort limits.

Anderson moved to authorize the City Administrator to not waive the monetary limits on statutory requirements for tort limits. Clapp seconded the motion. Ayes 5. Motion carried.

10. MATTERS FROM THE FLOOR

11. REPORTS

A. Administrator – Crawford report Clare Link has asked that Council members sign up for e-mail subscriptions under their City e-mail addresses. She also stated as a follow-up to the last meeting, the Bank of India is an

FDIC-insured banking institution and it is located in the United States. We also have four bank accounts and not sixteen. She stated a renter at the public docks is in default under our dock policy. The City Council has the right to revoke the permit after a hearing with ten days notice. She asked for authority to proceed with the notice. Clapp asked what happened. Crawford stated they were given permission to have the boat down there and haven't paid. Penberthy indicated the renter is not the owner. We want to proceed as quickly as possible. It is late in the season, and we don't know if we will be able to rent it. This renter remains liable for the entire amount. Crawford stated the renter has made partial payment and has set aside more. Penberthy stated we told them to come in and get the cash and make the complete payment. Council suggested we insist on pre-payment and verification of ownership. **Clapp moved to extend authority to the City Administrator to give notice of hearing. Anderson seconded the motion. Ayes 5. Motion carried.** De La Vega suggested keeping the \$800. Penberthy stated it will be better to wait until the hearing is over. He discussed statutory requirements. He stated we can't do anything about the boat until after the hearing. De La Vega stated this item will be on the next meeting agenda.

- 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** – De La Vega stated the last three Police Chief candidates will be interviewed on August 26.

12. **ADJOURNMENT**

There being no further business, it was moved by Anderson to adjourn the meeting at 8:43 p.m. Grothe seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk