CITY OF TONKA BAY
ITEM NO. 4B

MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
November 10, 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, 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 October 14, 2014
B. Regular meeting minutes of October 28, 2014
Ayes Clapp. Motion carried.

5. **MATTERS FROM THE FLOOR**
None

6. **SPECIAL BUSINESS**
None

7. **PUBLIC HEARINGS**
None

8. **OLD BUSINESS**
A. **Woodpecker Ridge Road Berm**
Kohlmann stated staff has contacted the City Engineer who has provided an engineer's estimate for any potential costs for the assessment of the berm on Woodpecker Ridge Road. He stated there would be a significant increase in cost for this. He stated if we do decide to repair the berm, would this be something that will be done every year?

De La Vega stated when last we left this, we were deciding how we would pay for this. Our understanding when the berm was originally built, it was specially assessed to the residents, and that is how we paid for that berm. Now that the berm exists, there will be ongoing maintenance required. One of the open questions we had, is what we are planning to do now considered maintenance or is it considered repair and, if so, how does the Watershed District define those? So that going forward, how do we maintain it if it is considered a repair? He stated he didn't know if we had that answer yet. In any case, as Joe mentioned, we do need to maintain it to make sure that it serves it purposes. He asked if the berm is on City land, is it required the City maintains it or should the residents take care of it. He believed that now that it is built, it is the City's responsibility to maintain it.

Clapp asked if we are maintaining it now or are the residents. Brackett noted the City mows it and sometimes the residents will help out with additional mowing.

De La Vega stated almost $23,000 would have to be spent to assign these costs. He asked if we are opening up a door here or is there a trip hazard we need to be aware of. Given the berm was initially assessed, are we creating a precedent. Penberthy stated the residents came to the City Council and asked that the berm be built. They were told we would build it, but they would have to pay for it. The other option would have been to do nothing, and the road would continually flood. The unanswered question then was what happens in the future if there needs to be maintenance. That was never discussed. If you are inclined to maintain or repair the berm for these folks, then what is the most cost effective or fair way to do that. He stated special assessments are not the most cost effective or fair way. You are spending more on the special assessment process than the cost of the repairs. He discussed the extremes of repairing or doing nothing. He stated you may want to consider making the repair this time and saying this is a one-shot deal. Whatever happens in the future, we're not going to do anything.

Grothe asked if the $22,000 even includes the $3000. The $22,000 is just for the assessment only. Was the wetland delineation to raise it higher. Kohlmann stated the wetland delineation is if they had to determine where the wetland is out there. He stated the open ended quote included a menu of expenses. Grothe stated it is a lot of money for what it is including.

De La Vega stated he liked the compromise idea. He didn't know what the agreement would look like. Penberthy stated he didn't think we would have an agreement per se; he didn't think we would get everyone to agree. His thought would be to just go on record as the Council saying that we would do it this year but would not undertake any responsibility in the future. He stated if we don't have an agreement signed by everyone, it wouldn't be enforceable.

De La Vega stated one of the things that would be essential to an agreement would be the definition of maintenance vs. repair. If we get to the stage we are at now, the costs on everything involved with it is quite different, and we would not be waiting until the place falls apart. Penberthy stated the standards are in the MCWD Rules. The standard that applies depends on the individual situation. It is almost impossible to say what will happen down the road.

Clapp asked how long ago they were assessed for the berm. It was noted it was 6-7 years ago. Clapp stated it seems to him after you assess for a road, we maintain the road after. He would have a hard time asking the residents to pay for this again. De La Vega agreed once City property is built, we maintain it.

Penberthy stated the cost of this project could come out of the road budget and be factored in during the budget cycle. If we were to do this at the least cost, it would make the smallest impact on the road budget. He stated this is a very isolated, unique project. There is no direction on what should be done. He stated there are cities that assess road maintenance and lighting.

Judd Brackett, 125 Woodpecker Ridge Road stated when this was first discussed, the docks at the back side were required to be removed. When there was occasional flooding, the City would lay down crushed rock with the comment that was "good enough". When the street was reconstructed, the Council went on record to say it would be assessed. He stated the residents have been told it is City right-of-way. Clapp asked why the docks are still there. Brackett explained there are a few original owners who are still allowed to have a dock.

De La Vega stated there is an array of solutions to this problem.

Anderson stated he would be willing to wait and see if it is going to flood in 2015. Clapp stated he wants to get it back up to the 931'. He didn't want to wait and see what happens. Grothe stated it will be spring before it is surveyed and we may see what is happening then. He believed it should be maintain as City property. In the future, it might be that we assess to do future repair or raise the height. He didn't think we need to get an agreement with the neighbors. We're kind of going on record to say this is what we are going to do now.

Penberthy stated there is nothing to say we are not going to assess the property owners at some point in the future. De La Vega stated we do not tie the hands of any future City Councils. Grothe stated we aren't going to say this is always going to happen. He stated he didn't mind the ideas of the docks remaining but was concerned about people walking across the berm to get to them. De La Vega stated at one point there were cars parking on the berm which prompted the request to remove the docks.

Anderson stated if we don't want people on it, why are we still mowing it? Clapp asked what would happen if the City sold this back to the residents. Grothe stated it is the lakeshore that allows the dock rights. Penberthy stated it is counted in our shoreline calculation. That road is unique, and it is an outlot of an old plat. The fee title is in the City's name.

Councilmembers and staff discussed the next step to take. Clapp noted the survey would not be able to be done until spring.

Anderson moved to authorize the survey in the spring and the City staff complete any work needed as a one-time remedy. Grothe seconded the motion. Councilmembers discussed the motion. Ayes 5. Motion carried.

Brackett suggested the permitting process continue in the meantime.

B. <u>Southshore Community Center - Response</u>

De La Vega stated this is a letter we have been drafting as a response to Shorewood's request.

Kohlmann stated he was unable to get the final draft due to computer problems. One version is attached for review this evening.

De La Vega discussed Tonka Bay's efforts on behalf of the Southshore Community Center.

Grothe asked what Greenwood's response was. Kohlmann stated they are relinquishing their control but are still an owner. De La Vega noted Deephaven will be discussing this issue in two weeks, and he was unaware of what Excelsior has decided. He stated Shorewood doesn't have any legal standing to be requesting the withdrawal.

Another draft will be brought back to the next meeting.

9. NEW BUSINESS

A. Aquos Board

Kohlmann reviewed the Aquos Board quote from DTS as well as for nine I-pads with Wi-Fi connections. De La Vega stated the PEG fees can only be spent on the filming and presentation of meetings. This will replace the overhead projector and projection screen.

Grothe asked what the rolling cart entails. Kohlmann stated the cart is a bracket-device that holds the monitor that would be able to be moved. It could be mounted. Grothe stated he wasn't sure how much it would need to be moved.

De La Vega stated this is state-of-the-art equipment. He stated the funds are available for the purchase.

Council discussed payment.

Anderson moved to authorize staff to move ahead with the purchase as noted in the amount of $18,805 with DTS. Ansari seconded the motion. Ayes 5. Motion carried.

10. MATTERS FROM THE FLOOR

None

11. REPORTS

A. Administrator – Kohlmann shared a letter regarding LMCD appointments. He stated the LMCD is requesting it be changed from an annual to a 3-year appointment.

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 noted Chief Litsey has resigned as of November 30, 2014 and will be working for Metropolitan State University. A meeting will be held on November 18 to discuss his replacement.

12. ADJOURNMENT

There being no further business, it was moved by Anderson to adjourn the meeting at 8:03 p.m. Ansari seconded the motion. Ayes 5. Motion carried.

Attest:

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Clerk