

# Memo

**To:** Honorable Mayor and City Council  
**From:** Joe Kohlmann, City Administrator  
**Date:** July 24, 2012  
**Re:** North Waseca Fire Lane

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**Overview:**

Staff received the *attached* written complaints regarding the North Waseca Fire Lane. The complaints are regarding commercial operations being conducted on the Fire Lane. Staff has extracted the issues from the complaints and provided comments below them.

- 1) **A Pontoon Business and Bay Rentals are now operating out of the fire lane-**
  - a. **Increased congestion, parking on public streets for commercial use**
  - b. **Increased traffic in the area**

**Staff Comments:** Regardless of the number of businesses, they legally operate. Any parking regulations would likely push the parking problem over to areas where the regulations end. There is already a commercial property in this location that brings in traffic. It is difficult to determine the exact amount of increased traffic these fire lane businesses create. Restrictions such as requiring marina parking, no trailer parking east of Manitou, a number of NO PARKING signs, and Resolution 00-58 Regulations for Fire Lanes all have been created to address potential conflicts between the commercial and residential properties in this area.

- 2) **Public Urination-**

**Staff Comments:** The City has no particular role in regulating this. It is a Police matter and they need to be notified when this occurs. The City could install a port-a-potty.

- 3) **Excessive Trash-**

**Staff Comments:** The City has a trash receptacle located right next to the launch area.

- 4) **Transactions and Instructions are causing these businesses to exceed the 15 minutes-**

**Staff Comments:** They should not do this and could possibly agree to transactions and training off site. The owner of Bay Rentals has indicated that training and transactions are being held off site. How would we identify all of the businesses operating out of this fire lane and get them to agree to this?

**5) Inadequate policing of the area-**

**Staff Comments:** This is a Police matter unless residents who reside in the area wish to contribute financially to hiring a seasonal inspector.

**6) Caribbean exceeds their parking capacity-**

**Staff Comments:** I communicated to the Caribbean that their customers or customers' guests are parking along the street and that is unacceptable. In response to this concern, they stated that they would send out a mailing to their customers reminding them that they need to make arrangements ahead of time to avoid this situation. Also, she said that they would monitor the parking situation to try and ensure that this problem does not persist.

**Attachments in order:**

*Written complaints and email response sent from Staff and SLMPD  
Resolution 00-58 Regulating Fire Lanes  
Minutes from 2000 when this matter was handled by the City Council*

**Council Action Requested:**

Discuss the materials and determine if there is a problem that the City should address concerning the North Waseca Fire Lane.

**Joe Kohlmann**

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**From:** kathyaanenson@comcast.net  
**Sent:** Monday, July 09, 2012 7:15 PM  
**To:** jkohlmann@cityoftonkabay.net  
**Subject:** waseca fire lane  
**Attachments:** waseca fire lane #5.pdf

Joe,

Please find my issue memo regarding the north wascea fire lane. It was a very busy week with all of the commercial use at the fire land in the neighborhood. South Lake Mtkka was on patrol on site Saturday night when a pontoon with 12 people landed. (they were all parked in the neighborhood) .I would be interested in their report. I am hopeful that we can resolve our issues. I was hoping that you could share my attached memo with the City Council. If not let me know and I can forward it directly. I would be happy to work on any tasks related to this issue. Please keep me informed of the next action steps as I note it is not even on tomorrow's City Council agenda. Your assistance in this matter is greatly appreciated.

Kathy Aanenson

7/10/2012

## **Memorandum**

To: Joe Kohlmann, City Administrator  
Members of the City Council  
From: Kathy Aanenson, Spokesperson for the neighborhood  
Subj: North Waseca Fire Lane  
Date: July 9, 2012

### **Background**

At your June 26, 2012 City Council meeting, the neighbors in the area of the North Waseca fire lane attended the meeting to discuss the unrestricted use of the fire lane for business for commercial profit. Bay Rental Jet Ski's operates out this fire lane. Since our presentation at the City Council meeting there is now a pontoon rental business using the fire lane. The activity level at the fire lane equals the activity level at the adjacent marina. The commercial use is an unacceptable use of the fire lane, for the residents in the neighborhood.

### **Analysis**

We have identified the following issues that we would like the city council to address.

1. The protection and preservation of property rights for the residents who live-in the area.
  - a. The jet skis with the addition of pontoon boats that can carry up to 12 people each, creates a very undesirable quality of life for the city residences.
  - b. These commercial uses create nuisances such as; public urination, excessive trash, congestion due to extensive times to conduct transactions and instructions, and drop off and pick up of patron's at the fire lane.
  - c. The only recourse the residents have to seek protection of said offenses is to call the police. Because the police may take up to an hour to arrive on a non emergency situation the violator's may be gone. Because there are two Marina's is the area, a public beach, the addition of the commercial rental business in the area should necessitate regular police patrol.
  - d. The Caribbean Marina and restaurant exceeds their parking capacity on a regular basis in the evening and weekends. These patrons will then use the neighborhood streets for parking. The shortage of onsite parking goes unregulated and unchecked by the city. This parking situation occurs at the same time the residents want to use and enjoy their property in the evenings and on the weekends. Adding to the unregulated parking in the neighborhood is the use of the commercial businesses at the fire lane. The City's Comprehensive Plan, Transportation Element, discusses the deficiencies of these narrow streets near the marina and in the Housing Element the plan states the goal of the preservation of residential quality throughout the community, by restricting on-street parking as needed to protect neighborhood quality-of-life and traffic flows.

2. The commercial use of the fire lane without any regulation.
  - a. The fire lane is under the jurisdiction of Tonka Bay. The city regulates how fire lanes are used based on their classification. This fire lane is a Class III as designated by the city. The city's jurisdiction over this fire lane as stated on your web site is to "allow pedestrian access to the lake, fishing from shore, launching canoes and other small boats not requiring a trailer, launching trailered boats, and winter vehicular access." Lakeview Avenue is a local street is it is not designated as an arterial or collector.
  - b. The fire lane is not commercial zoned and is being used for commercial profit business. There is no performance standards' regulating these rentals uses. The Tonka Bay residents have no recourse for the protection of their property.
  - c. The City's Comprehensive Plan Housing Element has a housing goal "Housing Quality and Preservation: Retain highly valued neighborhood qualities and preserve the City's housing." **Policy 3 – Lake states** "Achieve or retain lake access for the City residents through ownership on the lakeshore or a lagoon, membership in an association with lake access or participation (membership) in the City's marinas". It appears that the commercial use of the fire lane is in conflict with the intended purpose the residents of Tonka Bay.
  - d. Section 420.03 of the city ordinances state that "no peddler or solicitor shall offer for sale any good, wares, services, or other articles or value upon the streets or other public places with in the City of Tonka Bay". While the proprietor may conduct some of the transactions off site they have finalize the services offered on city property. In addition all patrons are instructed to park in the neighborhood. While the streets are public, these areas of this city are zoned R-3 and R-1B and are small lots. Most of the lots in this neighbor have a very narrow frontage and parking is a premium for the residents. Shouldn't the city require a person operating business in the city on city property to meet the standards of the city ordinances? Including providing adequate parking, not on a city right of way.

**Recommendations:**

The city can implement any of the following items to be consistent with the City Comprehensive Plan and make the fire lane access as asset to the neighborhood and eliminate the commercial use of the fire lane.

1. Eliminate the use of the fire lane for any commercial rental business. This may include the reclassification of the fire lane. The Pontoon and Jet operators can find a marina to operate out of, potentially the city's marina. They will then have access to parking that is not a residential street, and will be governed by the performance measure of the marina.
2. Restrict the use of parking for these commercial uses in the residential neighbor which has very narrow streets and affects our quality of life.
3. In the interim we would request regular police patrol of the area.

**Joe Kohlmann**

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**From:** Steve/Andrea Jones [jones4552@hotmail.com]  
**Sent:** Thursday, July 05, 2012 9:54 PM  
**To:** jkohlmann@cityoftonkabay.net; dhohertz@southlakepd.com  
**Cc:** Steve Jones; clink@cityoftonkabay.net  
**Subject:** Commercial parking on residential streets  
**Follow Up Flag:** Follow up  
**Flag Status:** Completed  
**Attachments:** Parking1.JPG

Dear Joe and Dave:

Attached please find a photo of a car that has been parked in front of 55 Sunrise Avenue since Friday June 29th. The owner of this car is a customer of The Caribbean Marina. I spoke to a South Lake Minnetonka police officer regarding this car and two others that were parked in this area about 3AM Saturday, June 30th when she responded to a noise ordinance violation at The Caribbean Marina. She advised that she would let the person that takes care of parking issues in Tonka Bay know that we have non-residents parking on Sunrise Avenue for long periods of time - often times in excess of the 48 hour ordinance.

We recently learned that The Caribbean Marina has instituted a policy that only one car per boat slip can park in their lot. We live across the street from the Caribbean Marina and can observe the comings and goings of traffic to this business every day. Most of the time (both weekdays and weekends) the lot has many open spots but every single weekend at least 2-4 cars park along this narrow one-way strip of Sunrise Avenue. There are 10 homes whose property joins this section of Sunrise Avenue. These lots are small and have little to no off street parking. The residents are already facing a hardship of limited parking for themselves and their guests.

Officer Dave Hohertz:

- What can you do to ticket/tow cars that are in violation of the current 48 hour parking ordinance?

Joe Kohlmann:

- What can you do to ensure that the Caribbean Marina accommodates parking space for their customers on their property? We, the neighbors of this commercial business shouldn't need to bear the burden of customers of The Caribbean parking on the street when there property is large enough to accommodate plenty of vehicles.
- Can signs be installed on this one-way strip of Sunrise Avenue that says something to the effect of:

No Commercial Parking  
Residential Parking Only  
Violators will be towed

I'm looking forward to hearing what can be done to reduce this nuisance to the residents of this community.

Thank you for your consideration.  
Andrea Jones  
130 Lakeview Avenue  
Tonka Bay

7/13/2012

**Joe Kohlmann**

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**From:** David Hohertz [dhohertz@southlakepd.com]  
**Sent:** Friday, July 06, 2012 3:04 PM  
**To:** Steve/Andrea Jones; jkohlmann@cityoftonkabay.net  
**Cc:** Steve Jones; clink@cityoftonkabay.net  
**Subject:** RE: Commercial parking on residential streets

Hello Andrea,

Thank you for bringing this issue to our attention. Officer Chapman, with whom you spoke on June 30<sup>th</sup>, also notified me of the parking problem. We will monitor the area for vehicles parked over the 48-hour limit, and issue citations when appropriate. Once a citation has been issued, we typically can have the vehicle towed within the next day or so if it still has not been moved.

Enjoy your weekend.

David Hohertz  
Support Services Manager  
Emergency Management Coordinator  
South Lake Minnetonka Police Department  
24150 Smithtown Road  
Shorewood, MN 55331  
(952) 474-3261



*Proudly Serving the Communities of Excelsior, Greenwood, Shorewood, and Tonka Bay*

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**From:** Steve/Andrea Jones [mailto:jones4552@hotmail.com]  
**Sent:** Thursday, July 05, 2012 21:54  
**To:** jkohlmann@cityoftonkabay.net; David Hohertz  
**Cc:** Steve Jones; clink@cityoftonkabay.net  
**Subject:** Commercial parking on residential streets

Dear Joe and Dave:

Attached please find a photo of a car that has been parked in front of 55 Sunrise Avenue since Friday June 29<sup>th</sup>. The owner of this car is a customer of The Caribbean Marina. I spoke to a South Lake Minnetonka police officer regarding this car and two others that were parked in this area about 3AM Saturday, June 30<sup>th</sup> when she responded to a noise ordinance violation at The Caribbean Marina. She advised that she would let the person that takes care of parking issues in Tonka Bay know that we have non-residents parking on Sunrise Avenue for long periods of time - often times in excess of the 48 hour ordinance.

We recently learned that The Caribbean Marina has instituted a policy that only one car per boat

7/13/2012

**Joe Kohlmann**

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**From:** Joe Kohlmann [jkohlmann@cityoftonkabay.net]  
**Sent:** Friday, July 13, 2012 10:40 AM  
**To:** 'Steve/Andrea Jones'; 'dhohertz@southlakepd.com'  
**Cc:** 'Steve Jones'; Clare Link  
**Subject:** RE: Commercial parking on residential streets

Andrea,

I apologize for the delay in getting back to you. I have been playing phone tag with the Caribbean all week and I was finally able to talk to a representative at the marina. I communicated to them that their customers or customers' guests are parking along the street and that is unacceptable. In response to this concern, they stated that they would send out a mailing to their customers reminding them that they need to make arrangements ahead of time to avoid this situation. Also, she said that they would monitor the parking situation to try and ensure that this problem does not persist.

In regards to the NO PARKING signage, there are several things to consider. At this point, I'm uncertain if all of the residents along Sunrise would like NO PARKING signs installed. That is something that we will need to determine. Also, by installing more NO PARKING signs in that area, it will essentially just move the parking issue down the road another block and so on and so on. This is something that can be considered by the City Council and I'm assuming it will be part of the discussion at the July 24<sup>th</sup> City Council Meeting.

The City has taken a number of steps in order to try and avoid issues between the commercial and residential properties in this area (marina requirements, no trailer parking along the road east of County Road 19, Fire Lane regulations, and no parking signs). However, it is apparent that there are issues that need to be reviewed. I have received a Memo from Kate Aanenson articulating many of the concerns in the neighborhood. I fully intend on putting together a review with our City Attorney for the City Council at our Regular Meeting on July 24<sup>th</sup>.

The City has a good working relationship with the Caribbean and I appreciate being alerted to these concerns. Hopefully the actions they take to remedy the problem are effective in preventing future parking issues in this area. Again, I wanted to pursue this matter prior to responding and that is the cause my delayed response.

Please contact me with any further questions and concerns.

Thanks,

Joe Kohlmann  
City Administrator  
City of Tonka Bay  
4901 Manitou Road  
Tonka Bay, MN 55331  
(952) 474-7994  
[jkohlmann@cityoftonkabay.net](mailto:jkohlmann@cityoftonkabay.net)

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**From:** Steve/Andrea Jones [mailto:jones4552@hotmail.com]  
**Sent:** Thursday, July 05, 2012 9:54 PM  
**To:** jkohlmann@cityoftonkabay.net; dhohertz@southlakepd.com  
**Cc:** Steve Jones; clink@cityoftonkabay.net  
**Subject:** Commercial parking on residential streets

Dear Joe and Dave:

7/13/2012

**RESOLUTION NO. 00-58**

**A RESOLUTION ESTABLISHING RULES AND REGULATIONS  
FOR THE USE OF CLASS III FIRE LANES**

WHEREAS, the City Council finds that as lake use and use of fire lane accesses increase, procedures and standards which have been adequate in the past have become inadequate and the danger to the public health, safety and welfare has increased; and

WHEREAS, the City of Tonka Bay desires to regulate the use of Fire Lanes by imposing conditions for said use; and

WHEREAS, it is the desire of the City Council to adopt said conditions by Resolution and also to adopt rules and regulations for all persons using said Fire Lanes; and

WHEREAS, the City Council determines that it is in the best interests of the community with respect to its health, safety and general welfare to adopt said conditions, rules and regulations.

NOW THEREFORE, BE IT RESOLVED, by the City Council of the City of Tonka Bay, Hennepin County, Minnesota, as follows:

**RULES AND REGULATIONS FOR ALL USERS OF CLASS III  
FIRE LANES**

1. No person shall use the designated launch area of the fire lane for a period of time exceeding fifteen (15) minutes to launch a vehicle. "Person" shall be defined as: "individual, firm, corporation, partnership, other legal entity or association of one or more individuals. "Vehicle" shall be defined as: "every device in, upon or by which any person or property may be transported or drawn upon a highway, lake, stream, channel or trail and shall include but not be limited to automobiles and other motor vehicles, boats, personal watercraft, snowmobiles, trailers, and parts thereof except devices moved by human power."
2. No person shall launch more than four vehicles at any one time.
3. No person shall launch a vehicle in the launch area or park a vehicle in the designated parking area between the hours of 11:00 p.m. and 7:00 a.m. Launch area and parking area are as designated on Attachment "A".
4. No person shall operate any vehicle on shore when said vehicle is intended to be

used on the water or ice and when said vehicle is launched at the fire lane. This rule shall not apply to persons operating vehicles arriving at the fire lane under their own power from another location and passing through the fire lane to gain access to and operate on the lake.

**Penalty:** Any person, firm or corporation violating any of the provisions of this resolution shall be guilty of a misdemeanor. Every day that such violation continues shall be a separate offense.

Passed at a regular meeting of the Tonka Bay City Council this 12th day of December, 2000.

Motion introduced by Mowry and seconded by Newberry.

Roll Call Vote:      Ayes - Newberry, Mowry, Senescall, Sasanfar and Keller  
                             Nays- None  
                             Absent -      None

\_\_\_\_\_  
Douglas Keller, Mayor

ATTEST:

Robert Rys, Clerk/Administrator

**B. Resolution Adopting SLMPD Funding Formula** - Mowry stated he has a problem with the amount the city is picking up. Senescall stated he is in favor of the percentage proposed under the formula. Senescall moved to adopt Resolution 00-57 to approve and accept the amendment to the joint powers agreement changing the SLMPD funding formula and direct the Mayor to execute said agreement. Sasanfar seconded the motion. Mowry stated he supports the concept of a set percentage but cannot accept the amount allocated to Tonka Bay. Ayes - Newberry, Senescall, Sasanfar and Keller. Nays - Mowry. Motion carried.

**C. Resolution Adopting Fire Lane Regulations** - Rys reviewed the proposed resolution and discussed changes recommended at the last meeting. Penalty language has also been added at the end. Mowry moved to adopt Resolution 00-58 adopting firelane regulations. Newberry seconded the motion. Ayes - Mowry, Senescall, Sasanfar, Newberry and Keller. Motion carried.

**D. Liquor Store** - Newberry stated she and Sasanfar have discussed Peter Mason's offer to purchase the liquor store. They feel it is a serious offer; however, there are far too many conditions to consider at this time. Sasanfar recommended a letter be sent to Mr. Mason stating we would like to decline the offer. Mowry moved to direct staff to write a letter to Peter Mason declining his offer. Sasanfar seconded the motion. Ayes 5. Motion carried.

**10. NEW BUSINESS**

**A. 2001 De-icing Permits** - Rys stated the permits for the Caribbean and Osmonson properties were reviewed today by him and Greg Kluver, and there are some concerns with the installation. He suggested that given the cancellation of the second regular meeting in December, the applications be approved but not issued until all application conditions have been met. Mowry suggested the permits be approved earlier in the year. Penberthy stated the problem with approving the permits with known violations is difficult. Sasanfar suggested the two permits not be approved because of the violations, and they should be remedied as soon as possible. Newberry suggested it be reviewed again at the meeting on the 20th of December. Newberry moved to approve the de-icing permit for Tonka Bay Marina and deny the permits for the Caribbean and Mike Osmonson. Mowry seconded the motion. Ayes 5. Motion carried.

**B. Approve Paws, Claws and Hooves Animal Impound Contract for 2001** - Senescall moved to approve the contract. Newberry seconded the motion. Ayes 5. Motion carried.

**C. Cancel December 26, 2000 City Council Meeting** - Newberry moved to

the issue of whether there is a meaningful conditional use permit request. He didn't believe two lots exist. Newberry didn't believe it meets the criteria for consideration of a conditional use permit and could not support the request. Sasanfar agreed with other comments. Mowry moved to deny the conditional use permit based on the testimony and evidence received by the City Council, and directing staff to prepare Findings of Fact denying the CUP application. Sasanfar seconded the motion. Ayes 5. Motion carried.

**D. Conditional Use Permit Request- Mark Eliot, 205 Woodpecker Ridge Road** - John Lang discussed the conditional use permit request. Keller opened the hearing for public comments. There were no public comments. Keller closed the hearing. Sasanfar moved to deny the conditional use permit based upon all the evidence and information received by the City Council, and directing staff to prepare Findings of Fact denying the CUP application. Senescall seconded the motion. Ayes 5. Motion carried.

**9. OLD BUSINESS**

**A. Resolution Adopting Fire Lane Regulations** - Rys noted the proposed resolution has been revised, and a sketch has been provided showing launch and parking areas. He discussed concerns about hours of operation based on what is done at other fire lanes throughout the city. Councilmembers discussed hours of operation and enforceability. The idea of summer/winter hours was discussed. It was determined Class II should be removed from the resolution. Doug Babcock, 75 Lakeview Avenue was concerned about the hours of operation in the summer and winter.

Sasanfar moved to amend the agenda to hear Item 10C next. Senescall seconded the motion. Ayes 5. Motion carried.

**10. NEW BUSINESS**

**C. Appoint 2001 LMCD Representative** - Babcock explained why he is being appointed at this time for a 2-year period. Senescall moved to reappoint Doug Babcock as LMCD representative for two years. Mowry seconded the motion. Ayes 5. Motion carried.

**B. Certify Delinquent Accounts** - Senescall moved to adopt Resolution 00-51 to certify delinquent accounts. Sasanfar seconded the motion. Ayes - Newberry, Sasanfar, Senescall, Mowry and Keller. Motion carried.

**D. Junk Violations** - Rys stated he is looking for Council to make a finding that violations are occurring at these addresses so letters can be sent. Mowry moved to direct staff to initiate the process. Sasanfar seconded the motion. Ayes 5. Motion carried.

**A. 2001 License Applications** - Rys stated he received paperwork from the Copper Stein this afternoon. He stated he would recommend approval pending review of the documents. Mowry stated he would prefer to see the actual documents and would

proposed request. Behnke explained how the proposal would not impact the Nelson's sight lines of the lake. Mary Jo Emfield, 125 Mound Avenue stated they have tried to please all the neighbors, but it has become very difficult to do so. She stated they would be willing to leave the porch uncovered on the Nelson's side. Mo Colbert, 105 Mound Avenue discussed the proposal. Keller closed the hearing to public comments. Mowry was unsure of what the average setback should be based on a variance request from 1997. He believed the request would need the approval of the City Engineer. Rys stated the Council could attach a condition to the variance requiring the City Engineer to approve the drainage plan. Keller discussed his concerns about variance approval. He discussed the need to prove that a hardship exists. Senescall appreciated the Emfield's spirit of cooperation with the neighbors. He stated given the information provided now, he would not be in favor of the request. Newberry stated she could not understand what the hardship is on this request. She stated she would not be able to support the request as presented. Sasanfar stated he agreed with comments made by others on the Council and could not support the request. Senescall moved to continue the hearing to the November 28th meeting. Mowry seconded the motion. Ayes 5. Motion carried. Mowry asked for verification of whether the window well is considered a structure within the side yard setback.

**8. OLD BUSINESS**

**A. Resolution Adopting Fire Lane Regulations** - Rys discussed earlier Council review of fire lane regulations and the suggestion to revise a resolution incorporating language from the proposed ordinance to make it more enforceable. Mowry asked for Penberthy to comment on the enforceability of the proposed resolution. Penberthy noted penalty language could be included in the resolution. The issue of enforceability is different from the ordinance because it doesn't distinguish between commercial and residential users. Newberry noted signage needed to be addressed in the resolution. Penberthy stated changes should be given to the City Administrator so that the resolution can be brought back in its final form to the November 28<sup>th</sup> meeting.

**9. NEW BUSINESS**

**A. Resolution Canvassing Election Returns - 2000 General Election** - Rys stated a corrected resolution has been provided for adoption. Mowry moved to adopt Resolution 00-49 canvassing the 2000 General Election returns. Newberry seconded the motion. Ayes - Newberry, Senescall, Mowry, Sasanfar and Keller. Motion carried.

**B. Request for Water Hookup at 5435 Timber Lane, Shorewood** - Rys discussed the request for water hookup to Tonka Bay water for a residence in Shorewood. He asked whether the City Council wished to continue to provide water to residents from Shorewood and, if so, discuss the policy. Mowry was concerned about Shorewood residents having fifteen years to pay for the connection, while Tonka Bay

**MINUTES  
TONKA BAY CITY COUNCIL  
REGULAR MEETING  
October 24, 2000**

**1. CALL TO ORDER**

The regular semi-monthly meeting of the Tonka Bay City Council was called to order at 7:30 p.m.

**2. ROLL CALL**

Members present were: Mayor Keller, Councilmembers Sasanfar, Mowry, and Newberry. Councilmember Senescall was absent. Also present were City Administrator Rys and City Attorney Penberthy

**3. APPROVAL OF AGENDA**

**Mowry moved to approve the agenda as submitted. Newberry seconded the motion. Ayes 4. Motion carried.**

**4. APPROVAL OF MINUTES - Regular Meeting - October 10, 2000**

**Sasanfar moved to approve the minutes of the regular meeting of October 10, 2000 as amended: Page 4, amend motion under Item 8C by adding: "using independent methodology not existing monuments." Newberry seconded the motion. Ayes 4. Motion carried.**

**5. CONSENT AGENDA - Resolutions 00-45, 00-46, 00-47**

**Sasanfar moved to approve the Consent Agenda adopting Resolutions 00-45, 00-46, and 00-47. Newberry seconded the motion. Ayes 4. Motion carried.**

**6. SPECIAL BUSINESS**

**A. LMCC Report - Sally Koenecke reported on LMCC activities and the 2001 budget. She discussed the franchise purchase, customer complaints, addition of Loretto to the LMCC, franchise fees, and future Internet access. **Mowry moved to support the 2001 budget as submitted. Newberry seconded the motion. Ayes 4. Motion carried.****

**7. MATTERS FROM THE FLOOR**

**A. Elaine Anderson, 20 Cedar Street reported on the theft of campaign signs throughout the community. She also discussed her concern about Shorewood's intent to stop liquor operations at the Tonka Bay Liquor Store.**

**8. PUBLIC HEARING**

None

**9. OLD BUSINESS**

**A. Fire Lane Ordinance - Second Reading - Rys reviewed changes to the resolutions supporting the fire lane ordinance as proposed. Ken Pittel, 70 Pleasant**

Avenue discussed his concerns about requiring vehicle license numbers and restricting parking. Sasanfar asked if the ordinance is enforceable. Penberthy stated the issue is whether or not the City wants to hire a dockmaster to monitor. He believed the issue on parking is clear, and the burden falls on the licensee. Sasanfar was concerned about passing an ordinance that is unenforceable. Councilmembers discussed this issue and how it could be enforced. Rys stated the launch and wait areas have been designated. Sasanfar asked if a sign should be installed which would notify all commercial users to register with the city. Penberthy stated it would be one way to make commercial users aware. He stated it needs to be determined who would enforce the sign. Keller suggested continuing the discussion to allow time to provide better language. Penberthy suggested not passing the ordinance but adopting the resolution provided. Mowry suggested a new resolution be provided at the next meeting. Helen Heiland, 120 Lakeview Avenue stated she was confident there would be a workable solution created.

**10. NEW BUSINESS**

**A. Request from Mike and Linda Maki, 200 Sunrise Avenue** - Rys stated a request was received to reconsider a variance previously denied at the July 25, 2000 meeting. He stated one of the two members who voted against the original application original motion makers would have to make a motion to reconsider, and a 4/5 vote of the Council would also be necessary. As there isn't an application at the present time before the City, a new complete application would be needed. **Keller moved to reconsider the Maki variance request. Sasanfar seconded the motion. Ayes 4. Motion carried.**

**B. Discuss Mason Properties Correspondence** - Rys noted the completed appraisal report was provided to the Council for informational purpose. He discussed the offer from Mason Properties to purchase the Tonka Bay Liquor Store. Peter Mason, Smithtown Crossing discussed his offer to purchase the liquor store. He stated he would be willing to split any future profit on the purchase of the liquor store by the County. Sasanfar stated the Council has the responsibility to take the offer seriously. Mowry agreed it should be pursued. Newberry asked what the next steps should be. Keller believed residents should be able to comment on what they think should be done. Sasanfar suggested a committee be formed to begin the process. Mowry suggested Sasanfar and Newberry be involved.

**C. Proposals for Sewer Lining** - Kluver reviewed plans to correct 564 feet of sewer line located in the West Point Road and Tonka Bay Road area. He stated two bids were received for the job. The low bid was from Lametti & Sons in the amount of \$18,907.00. He stated this work would satisfy requirements of the matching grant the City received from Met Council. **Mowry moved to accept the low bid of Lametti & Sons in the amount of \$18,907.00. Newberry seconded the motion. Ayes 4. Motion carried.**

problem is the extension of the addition. He was concerned about sight lines. Rhonda Bittner stated the Anderson's main view of the lake is across Gideon's Bay. Mowry stated he believed a hardship exists due to the lot size. He concurred that hard cover will not increase. He supported the request. Sasanfar stated sight lines did not appear to be an issue to him, and he supported the request. Newberry agreed with comments made, and she supported the request. **Mowry moved to adopt Resolution 00-45 to approve the variance request. Sasanfar seconded the motion. Ayes - Newberry, Mowry, Senescall, and Sasanfar. Nays - Keller. Motion carried.**

**B. Variance Request - Al Schafer and Evangeline Nelson, 60 Brentwood Avenue** - Rys read the public hearing notice for a variance request to construct an addition onto a legal non-conforming structure. He reviewed the survey noting the location of the proposed addition and discussed the needed variances. Al Schafer, 60 Brentwood Avenue discussed the request and noted there would be no increase in hardcover. He discussed the hardship. Keller opened the hearing for public comments. There were none. Newberry discussed the variance request. Senescall believed there would be an impact on the neighbors on the harbor side. Mowry stated that given the unique characteristics of the lot, he could support the variance as submitted. Keller stated he didn't have a problem with the request. Sasanfar stated he could clearly see the hardship. He supported the request. **Mowry moved to adopt Resolution 00-46 to approve the variance request. Sasanfar seconded the motion. Ayes - Newberry, Mowry, Senescall, Sasanfar and Keller. Motion carried.**

**C. Variance and Simple Subdivision Request - Ray Eliot, 205 Woodpecker Ridge Road** - this item was tabled.

## **8. OLD BUSINESS**

**A. Fire Lane Ordinance - Second Reading** - Newberry discussed the letter submitted by Ken Pittel, 70 Pleasant Avenue. She was curious about the insurance requirements. Penberthy stated it would depend on the type of business; however, it is a general insurance requirement. He stated the Council must consider what the City's intent would be. The Council needs to determine whether it is important that the businesses have insurance. Newberry believed as long as the City is covered, it shouldn't make a difference. Councilmembers concurred insurance should be removed from the ordinance. **Sasanfar moved to continue the second reading to October 24, 2000. Mowry seconded the motion. Ayes 5. Motion carried.**

**B. Smithtown/County Road 19 Intersection Update** - Keller noted comments have been received from Mason Properties, residents, as well as the City of Shorewood. Bruce Polaczyk, Hennepin County was present to answer any questions. Keller asked for answers relating to the timeline and financing. Polaczyk stated that staff's memo captured the County's position quite clearly. He stated the County has concluded the funds would lapse at the end of this year whether the Council takes any

sections of the ordinance. Mowry stated he could support the request as submitted. Keller didn't believe the hardship would adversely affect any of the neighbors. He stated he could support the request. Sasanfar agreed with comments already made. He believed the hardship exists because of the lot size and width. He supported the request, because it would not impact any of the neighbors. Sasanfar moved to adopt Resolution 00-43 approving the variance request. Newberry seconded the motion. Mowry suggested including the lot width. Ayes - Newberry, Mowry, Senescall, Sasanfar and Keller. Motion carried.

**8. OLD BUSINESS**

**A. Fire Lane Ordinance** - Rys stated signage would be considered under a separate resolution, and language pertaining to such has been removed from the ordinance. Mowry suggested a summary publication ordinance when it is published. The ordinance's second reading will be held at the Council meeting on October 10<sup>th</sup>.

**B. Smithtown/County Road 19 Intersection** - Rys noted the liquor store appraisal has been received as well as projections on the sale provided by the City of Shorewood. A copy of the minutes from the June 13th meeting was also available. He reviewed the alternatives provided by Hennepin County. He noted the city supported the first alternative at that time. Keller opened the floor for public comments. Steve Kohls, 80 Lakeview was opposed to removing the liquor store. Cindy Kohman, 115 Brentwood Avenue stated residents were in favor of better signage and flashing lights at the intersection when the public meeting was held in 1999. John Kohman, 20 Waseca Avenue was opposed to the three alternatives but would be in favor of the first one. Don Dunn, 50 Interlachen Place discussed why he was not in favor of the traffic light at this location. Virginia Froberg, 35 Old Orchard Lane stated the problem with the intersection is drivers don't know what to do. She was concerned about the speed resulting from the addition of a traffic signal. Elaine Anderson, 20 Cedar Street stated she would not be in favor of changing the intersection and losing the liquor store. Lowell Day, 25 Pleasant Avenue stated his support for the third alternative. Eugene Norling, 35 Hazel agreed better signage is the way to go. Marvin Bjorlin, 115 Crabapple Lane agreed with the suggestion for more signage. Jeannie Kelly stated she is opposed to the third alternative and agreed better signage should be tried first. Peter Mason, Smithtown Crossing believed in the long haul, the intersection needs to be completely redeveloped. He discussed plans for Smithtown Crossing. There were no more public comments. Newberry believed the third alternative should be considered. She believed it provides better traffic control for the city. She discussed the need for redevelopment of the area. Mowry discussed his support of the third alternative. Senescall stated there is no urgency to make a decision at this time. Keller discussed the report Shorewood prepared on the intersection and explained why he did not think there was a traffic problem there. Sasanfar stated he is completely opposed to the third alternative. He stated he was also opposed to losing the liquor store. He believed a clear message should be sent to

other Councilmembers' input. Newberry stated she could not support the request and didn't see any hardship. Sasanfar stated he was also unable to support the request and believed there are other alternatives. Keller stated he could not support a structure on the property line. Senescall stated he could not support the request. Mr. Eaton stated there is no other good location for the shed on the property. He asked the Council to vote. Sasanfar moved to adopt Resolution 00-38 to deny the variance request. Newberry seconded the motion. Ayes - Newberry, Mowry, Senescall, Sasanfar and Keller. Motion carried.

**C. Public Hearing on Proposed Parking Regulations** - Newberry reviewed concerns about the parking issues in the City and the request to hold a public hearing to get residents' input. She reviewed the committee's proposal to remove the idea of parking by permit at this time. Keller stated he received only negative comments from residents on parking by permit restrictions. Newberry reviewed phase one recommendations that would involve strengthening the marina-licensing ordinance. Marinas would be required to have full time on-site supervision, provide appropriate signage, provide for future use of existing marinas to prevent future parking issues, limit time for on street parking, prohibit marina parking on city street, and provide a designated off-lake parking area for marina guests. Phase 2, or parking permits, would be implemented if Phase 1 regulations were not successful. She stated the Phase 1 recommendations could be implemented for the 2001 boating season. She discussed recommendations for parking in city parks. These would be seasonal. Mowry discussed sign locations. Keller opened the hearing for public comments. Roger Westman, Lindbo Landing stated they take objection to requiring full time supervision at the marina. He stated they would have to take on other activities if they were required to have full time supervision. Steve Kohls, 80 Lakeview Avenue stated he was opposed to any parking restrictions. Bill LaBelle, 45 West Point Drive believed some of the restrictions would be impossible and unreasonable for Lindbo Landing. He suggested different requirements based on the size of the marina. He questioned whether a problem really exists. He suggested full time supervision, if mandated, be required during the busier times of year. Joyce Hertaus, 230 West Point Drive stated she has never seen any problems at Lindbo Landing. Jeannine Kelly, 380 Lakeview Avenue stated she is also opposed to restricting Lindbo Landing. She is opposed to the 2-hour parking limit at parks. Steve Kelly, 87 Lakeview Avenue stated he was opposed to parking restrictions and fire lane restrictions. John Kelly, 380 Lakeview Avenue believed the restrictions would be confusing and was opposed to them. Linda Kellogg, 310 West Point Road was not in favor of the 2-hour and permit parking. She believed it needs to be watched for transient usage. There needs to be some level of control. Keller closed the hearing for public comments. Sasanfar stated there is no problem as far as he is concerned. He believed phase one should also be tabled and considered at a future date if a problem exists. Keller discussed his concerns about regulating parking. He discussed the creation of car/trailer waiting areas.

Senescall stated Lindbo Landing has not been monitored as it should be. There is a problem on West Point Road. He asked the Lindbo Landing management to control and monitor the marina on the weekends when it will be busy. Westman discussed the number of boats and parking spaces at Lindbo Landing. He stated he is willing to add more supervision on the busier weekends. Mowry stated he would like to revisit the parking in parks and conversion of marina issues in the future. Staff was directed to check signage at the parks related to overnight parking. Senescall suggested reviewing the cost of such signs. Newberry stated the marina-licensing ordinance needs to be strengthened as it relates to boat clubs and charter businesses. She also recommended looking at parking in the parks to assure it would be used for park patrons. Staff was directed to bring back a proposed ordinance.

8. **OLD BUSINESS**

A. **Resolution Adopting Summary Ordinance - Right-of-way Ordinance** -

Rys reviewed the sample resolution and summary ordinance. Mowry moved to adopt Resolution 00-39 adopting the summary ordinance and ordinance as amended. Sasanfar seconded the motion. Ayes - Newberry, Mowry, Senescall, Sasanfar and Keller. Motion carried.

B. **Liquor Committee Update on Smithtown Crossing/County Road 19** -

Newberry reviewed a meeting held to discuss Tonka Bay Liquors. The committee agreed to have an appraisal done of the building and an audit of the books. She also recommended an inspection be done to determine if there are any major repairs needed. She reviewed the process to be followed once plans are approved for the Smithtown/County Road 19 intersection. The County needs to be informed by early October of the city's decision. Sasanfar moved to authorize an appraisal of the liquor store by Scott Renne. Senescall seconded the motion. It was noted Shorewood would pay half of the \$1100 proposed for the appraisal. Ayes 5. Motion carried. Councilmembers discussed the audit and inspection. Senescall stated he is not in favor of an audit. Keller agreed.

9. **NEW BUSINESS**

A. **Proposed Budget - Resolution Authorizing a Tax Rate Increase** -

Rys stated the resolution needs to be adopted in case there is a tax rate increase. Senescall moved to adopt Resolution 00-40 authorizing a tax rate increase for 2001. Newberry seconded the motion. Ayes - Newberry, Mowry, Senescall, Sasanfar and Keller. Motion carried.

B. **Resolution Adopting 2001 Proposed Tax Levy and Budget** -

Rys stated this information needs to be forwarded to Hennepin County by September 15. He reviewed changes to the budget as recommended at the budget workshop. Sasanfar

**B. Fire Department Budget** - Rys noted the Transition Committee has reviewed the Fire Budget. Gary Ringate, Fire Chief was present to discuss the budget process. Sasanfar moved to adopt the 2001 Fire Department budget. Newberry seconded the motion. Ayes 5. Motion carried.

**8. PUBLIC HEARING**

None

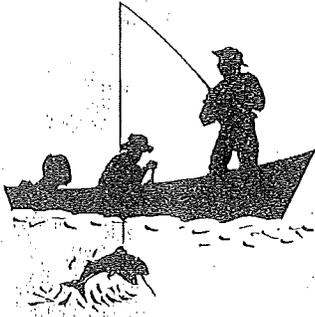
**9. OLD BUSINESS**

• **A. Marina Committee Report** - Rys discussed meetings held and asked Councilmember Newberry for a report. She reviewed the issues of the North Waseca Fire Lane and parking in the area. She discussed the uses allowed on the fire lane. She discussed recommendations the committee proposed to regulate the use of the fire lane. She discussed similar restrictions for winter use. Keller opened the floor for public comments. Ken Pittel, resident explained how his Jet Ski business operates. Helen Heiland, 120 Lakeview Avenue discussed her concerns about the Jet Ski operation and the impact on her home. Greg Millstrom, fishing guide discussed the use of fire lanes as a public access. He didn't believe there was a lot of commercial use of the fire lane. Steve Kellogg, 310 West Point Road discussed his concerns about the commercialization of Lake Minnetonka. He encouraged the City Attorney to litigate. Ken Herrington believes the Jet Ski operation is being singled out. Linda Kellogg, 310 West Point Road discussed the confrontation with the Jet Ski operators. Terry Forbord, 265 West Point Road discussed the need to take back the community and why these issues were originally raised. It is not the intent to single out any commercial venture. He stated the problems would only continue to get worse if these issues are not regulated. Danielle Pittel believed the Jet Ski operation compliments other businesses in the area. She stated the service is very important to allow access to all kinds of people. Mowry discussed the changing nature of the lake and the need to provide access to all. He believed the Council should be proactive and solve the problem rather than ignore it. Keller discussed his concerns about the Jet Ski operation. Sasanfar stated closing the fire lane for launching boats is not an option. Councilmembers discussed the proposed recommendations for firelane use and winter use and made the following recommendations: 1) Launch by any one vehicle would be limited to fifteen minutes; 2) Limit the number of launches by any one vehicle; 3) Limit the launch hours available during the summer to 6:00 a.m. – 9:00 p.m.; 4) control waiting for launch by providing a 2-spot designated "launch wait area" (Signed no parking for other uses), no waiting in other areas; 5) on-shore demonstrations of watercraft operation shall not be permitted within the area of the fire lane – such demonstrations will delay time at launch and create noise and odor nuisance); 6) create or modify existing ordinances to require all commercial businesses, whether based in Tonka Bay or not, to obtain license to use the fire lane; 7) institute a license fee for commercial uses with an annual renewal; 8) the commercial business must provide off street parking and shuttle their clients to the fire lane; 9) proof

of insurance or bond by the commercial business owner must be provided to the City prior to issuance of license; 10) fees collected will be used to provide for dockmaster to patrol the area and/or monitoring by city staff; 11) fines for violation of the ordinance including revocation of any licenses. Winter fire lane usage recommendations were as follows: 1) Create or modify existing Ordinance to require all Commercial Businesses, whether based in Tonka Bay or not, to obtain license to use the snowmobile fire lanes; 2) Institute a license fee for Commercial uses; 3) Annual renewal of license; 4) As a condition of the license, the commercial business must provide off street parking and shuttle their client to the fire lane – could consider allowing use of City Park parking facilities for the winter season to encourage ice safety; 5) Proof of Insurance or Bond by the commercial business owner must be provided to the city prior to issuance of license; 6) Fines for violation of the Ordinance, including revocation of any license. Penberthy was directed by consensus to prepare an ordinance. Penberthy discussed enforcement of the ordinance. Newberry discussed recommendations made to resolve parking issues. She suggested a public hearing be held prior to any ordinance being drafted. Keller opened the floor for comments on parking. Joyce Hertaus, 230 West Point Drive stated she has never seen anything objectionable at the marinas. Steve Kohls, 80 Lakeview Avenue didn't believe parking should be restricted. It is only a problem for a short time of year. Don Dunn, 15 Interlachen Place was not in favor of permit parking. Don Westman, Lindbo Landing stated he favors increased enforcement of trailer parking and time limits at the beach lots, but does not favor additional parking restrictions or require on-site supervision. Terry Forbord, 265 West Point Road discussed the impact of the ordinance on residents. Greg Dahl, 300 West Point Road agreed it is important to be proactive before parking is a very serious problem. Keller discussed the use of a dockmaster at Lindbo Landing to decrease transient use. Council discussed holding the public meeting on September 13.

The Council recessed at 9:50 p.m. and reconvened at 10:00 p.m.

**B. Drainage Issues- 345 Lakeview Avenue** - Rys discussed concerns raised regarding drainage at 345 Lakeview Avenue. A letter was sent asking that elevations be verified. A letter was received from Mr. Cook on July 26. Greg Kluver visited the site with the surveyor to assure that the drainage plan would be maintained. The elevations have not been verified. Keller stated he would like elevations provided from the road to the lake to assure they are what were proposed on the plan. Rys stated Mr. Cook was present to address the issue. Joe Cook, 345 Lakeview Avenue discussed drainage on his property. He believed the issues should have been raised when the work was being done. Keller stated he would like to be assured the elevations are correct. Kluver discussed his conversation with Cook's landscaper regarding the drainage swales. Newberry suggested the landscaper provide a letter certifying that the elevations have been shot and verified. Bev Huntington believed the Helland property is the one with the drainage problem.



# City of Tonka Bay

4901 Manitou Road, Tonka Bay, Minnesota 55331 (952) 474-7994

MAYOR  
Doug Keller

July 18, 2000

COUNCIL  
Guy Sasanfar  
John Senescall  
Judd Mowry  
Julia Newberry

ADMINISTRATOR  
Robert Rys

Mr. Ken Pittel  
70 Pleasant Avenue  
Tonka Bay MN 55331

Dear Mr. Pittel:

At its regular meeting of July 11, 2000, the Tonka Bay City Council discussed recent concerns raised relating to the commercial use of the City's fire lanes. As a result, a committee was formed to study the issue and report back at the August 8<sup>th</sup> meeting. You may wish to attend this meeting to give your input.

If after reviewing this you have any questions, please contact me at 474-7994.

Sincerely,

Robert Rys  
City Administrator

RS:ctl  
PITTEL 7-17-00

9. **NEW BUSINESS**

A. **Public Launching at Caribbean Marina - Discussion** - Rys stated this issue is more complex than anticipated, and staff and the city attorney believe it would involve more of a time commitment on the part of the city attorney. Penberthy stated it is similar to the marina issues previously discussed. He suggested the committee also take on this issue. Newberry discussed Senescall's concerns about the degradation of the launch by commercial operators. Elaine Anderson, 20 Cedar Street believed the problem exists because of the jet ski "business." She didn't believe residents should be penalized by closing the launch area. Helen Helland, 120 Lakeview Avenue discussed problems associated with the jet ski "business." Terry Forbord, 265 West Point Road discussed his concerns about the business operating in front of City Hall and urged enforcement. Keller suggested a meeting be held with the resident to discuss the issue. Mowry asked whether other cities might have an ordinance on the books that would address these issues. Penberthy stated it is Tonka Bay's problem. He discussed the need to identify the issues. Forbord stated another issue is whether commercial use is allowed in the fire lanes. Newberry suggested a letter be sent addressing concerns with the jet ski business and solicit his input. Councilmembers discussed the business. Forbord stated it is a fundamental issue, and an ordinance should be drafted immediately. Penberthy stated a well considered ordinance is of more benefit to the residents than one that is put together quickly. Penberthy stated one of the major issues is whether certain activities can be prohibited on fire lanes.

B. **2001 LMCD Budget** - Sasanfar moved to adopt Resolution 00-30 adopting the LMCD Budget. Newberry seconded the motion. Jabbour discussed a proposal for additional patrol on Lake Minnetonka whereby a third of the budget would come from the LMCD budget. Ayes - Newberry, Mowry, Sasanfar and Keller. Motion carried.

10. **MATTERS FROM THE FLOOR**

None

11. **REPORTS**

**Rys- Accounts Payable** - Rys stated Shorewood would like to meet at the Community Center on the 25th. He suggested a budget workshop on August 22nd to review a proposal for the 2001 budget. Rys stated the property owner on Lakeview Avenue has been contacted relating to drainage issues. The property owner stated he would not comply with the City's request to verify the elevations. Councilmembers discussed the Cook property. Penberthy stated another letter could be sent certified confirming that the property owner would not comply. A request has been received for the placement of fiber optic cable in the right-of-way. He would like to come back with