

CITY OF TONKA BAY ITEM NO. 4A

MINUTES TONKA BAY CITY COUNCIL REGULAR MEETING June 22, 2010

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 LaBelle, Councilmembers Marceau, Tessness, Folley, and De La Vega. Also present were City Administrator Kohlmann, City Attorney Penberthy, City Planner Gozola, and City Engineer Darin Ellingson.

3. APPROVAL OF AGENDA

De La Vega moved to approve the agenda as submitted. Marceau seconded the motion. Ayes 5. Motion carried.

4. CONSENT AGENDA

Marceau moved to approve the consent agenda as presented approving the regular meeting minutes of June 8, 2010 and Accounts Payable. Folley seconded the motion. Ayes 5. Motion carried.

5. MATTERS FROM THE FLOOR

None

6. PUBLIC HEARING

A. Continued Variance Requests – Tonka Village Shopping Center, 5609 Manitou Road – Kohlmann stated this is a continuance of the variance request for a sign at the Tonka Village Shopping Center. He noted the ordinance has been amended to allow electronic changeable copy signage. He reviewed the applicant's request for variances. Ben Gozola, City Planner reviewed the property location. The item was tabled in April in order to allow the City time to amend its sign ordinance to allow electronic changeable copy signs. He reviewed what the sign would look like and the proposed size. The proposal is 36' in size which would require a 12' variance. He reviewed the sign location, two feet away from the front property line. This would require the need for two additional variances. The first variance requested would be a six-foot front yard setback from the required eight-foot setback, and the second would be a variance from the corner vision triangle requirement. The fourth variance is no longer necessary because of the signs and outdoor advertising ordinance amendment. Gozola

stated one of the easements where the sign is proposed to be located has a Met Council sewer line running through it. He noted the Met Council has consented to the request being located in their easement if the applicant signs a legal agreement to protect everyone's interests. Gozola recommended denial of the sign size variance. He did not find there is a need for a large sign. An undue hardship does not exist. Special circumstances are applicant driven. He noted the front yard setback and the corner vision triangle variances are based on safety issues. The City Engineer had determined that sight lines could be met while the County Engineer determined sight lines could not be met. After the last meeting, it was determined the speed limit in that area was 35 miles per hour. Following another analysis, the City Engineer concurred with the County Engineer that sight lines could not be met. The County Engineer has reconsidered their determination as well. He reviewed possible motions for approval or denial. He also submitted a revised list of recommended conditions for approval of the request. LaBelle asked for clarification of the "real world" speed limit vs. the actual posted speed limit. **Darren Ellingson, City Engineer** stated the County looked at the actual physics of how fast you can go around the corner. Their determination was 30 miles per hour. It is a real gray area. It is very deceiving how traffic moves around the curve. LaBelle stated he was concerned about the possibility of a liability nightmare. De La Vega stated he didn't feel the sign location is in the right place given the new evidence. Folley asked for clarification of the corner vision triangle. Ellingson explained how the corner vision triangle is measured and the difference achieved when you consider the different speed limits. De La Vega believed we will be making a bad situation worse. He believed there are other locations that are better for the sign. **Phillip Jaffe, owner** stated they are not interested in doing anything that will create a public hazard. He would ask the City and WSB to consider if there are any compromises that would make the sign location safe. He stated he is open to any ideas. LaBelle stated there is always a compromise. LaBelle opened the hearing for public comments. There were no public comments, and LaBelle closed the hearing. De La Vega stated he is not about creating more traffic issues on the road. This would create the potential for additional problems. He stated another alternative would be to place the sign in the island or over by the stop sign itself. He did not oppose the sign and believed it is a beneficial thing to do for the tenants. Tessness stated he didn't see the danger, but he would be afraid to approve it given the professional input this evening. He would be in favor of moving the sign back. He would not be in favor of this request at this point. Marceau stated he would be in favor of a new proposal that would work better for all involved. Folley stated he would be in favor of part of the proposal. LaBelle encouraged the Center owners to have the sign, but we need to consider the application in terms of hardship and safety. In order to justify the size, we have to have unique circumstances and other considerations. Kohlmann stated we have until the end of August to approve the request. LaBelle suggested the applicant recommend the hearing be continued to a future meeting. Folley asked if there had been any feedback about the mock sign when it was in place. Jaffe noted he heard comments

that customers didn't know some of the businesses on the sign were located there. He indicated he would like to be on the next agenda. **Tessness moved to continue the public hearing to July 13, 2010. De La Vega seconded the motion. Ayes 5. Motion carried.**

B. Continued Variance Requests – Charles/Rae Maciosek, 70 West Point Place – LaBelle stated we have received a 30-page recommendation from the applicant on June 17. Staff has asked that the public hearing be continued to July 13, 2010 to allow them time to review this document. We will still take public comments this evening before we continue the meeting. **Ben Gozola, City Planner** reviewed the location of the lot in question at 70 West Point Place. The property owner has incorporated a number of changes since the last submittal to eliminate the need for a floodplain buffer variance, they have addressed the driveway elevation, and they have moved the driveway location to eliminate the need for a side yard setback. He stated two issues remain. The first would be a wetland buffer variance to increase the size of the building pad and a second wetland buffer variance to allow the private driveway access. Gozola reviewed the history of this application beginning with their original application in October, 2009. He noted the issue for this application is the east side of the property is planned for single family residential in the city's Comprehensive Plan. The zoning approved by the Met Council will be provided at the next Council meeting. He also discussed the setbacks for the proposal given the unique character of the lot. He recommended the public hearing be continued to the July 13 meeting; however, feedback will be accepted from those present tonight. Folley asked Gozola to explain the hardship for this request. Gozola explained once all the setback requirements are considered, you will end up with a very small area for a structure. De La Vega asked if the Met Council approved the Comprehensive Plan. Gozola stated the version received in April did not include the latest and greatest maps. LaBelle opened the hearing for public comments and reminded those present the hearing would be continued to July 13. **Mark Kelly, attorney representing James Krenik, 60 West Point Place** believed the second interpretation discussed by staff is a valid one and should be considered. He noted the Code doesn't make a determination of primary and secondary lakeshore. He stated a reasonable use for this property is a single family home. He reviewed a site plan showing his client's adjoining property. It showed the proposed home would be set substantially in front of the Krenik property which is what they oppose. **Bruce Malkerson, attorney representing Charles and Rae Maciosek, (applicants)** stated the ordinance itself is not enforceable which is outlined in his letter. There is a MN Supreme Court decision that addresses front yard setbacks and supports staff's interpretation. He suggested it is premature to do anything until it has been determined what Comprehensive Plan was adopted. LaBelle stated it is our intent. **Steve McCloskey, 50 West Point Place** stated the neighbors just want the next house to be planned out so it does not impact property values, light, air, etc. LaBelle closed the public hearing. **Folley moved to continue the public hearing to the July 13, 2010**

meeting. Tessness seconded the motion. Ayes 5. Motion carried.

7. **OLD BUSINESS**

None

8. **NEW BUSINESS**

A. **Adopt Resolution Appointing Election Judges** – Kohlmann stated staff is requesting approval of the resolution appointing election judges for the Primary and General Elections. **Marceau moved to adopt:**

**Resolution 10-13
A Resolution Appointing Election Judges
for the August 10, 2010 Primary Election
and the November 2, 2010 General Election**

Tessness seconded the motion. Ayes – Tessness, Folley, Marceau, LaBelle and De La Vega. Motion carried.

9. **MATTERS FROM THE FLOOR**

None

10. **REPORTS**

A. **Administrator** – Kohlmann stated he has followed up on rental housing information and has provided a compilation of all the offenses against rental properties in Tonka Bay. An ordinance from Frazee, MN has been provided to show how a smaller city has handled rental properties. He also contacted SLMPD who agreed to provide monthly reports as needed by address. He asked Council for their input noting the next step would be to draft an ordinance. Marceau stated he reviewed the Frazee ordinance that has 180 rental units in a community with 450 housing units. He believed a way to start the rental ordinance process would be to set up a committee to discuss the purpose, procedure, and possible issues. He stated it may or may not be the way to go. He suggested Councilmembers and landlords or tenants could be on the committee. LaBelle stated no one is looking to rush into this process. He indicated more information and evidence is needed. He was in favor of creating a task force. Folley stated he would like to see regular police reports. He would also like to see the current ordinances enforced. He also agreed the landlords and/or tenants need to be a part of this task force. Councilmembers discussed the purpose of a rental ordinance. Marceau stated he would be willing to participate on the task force. LaBelle and Tessness also volunteered to serve on the task force. Tessness asked Kohlmann if SLMPD had any kind of feedback on an ordinance. Kohlmann stated they are generally interested in a rental ordinance. Marceau offered to get together a list of homestead and non-homestead properties. De

La Vega stated he is convinced rental properties are an issue that need to be addressed. **Tessness moved to create a rental housing task force to discuss rental housing options. The task force will consist of LaBelle, Tessness, Marceau, and Kohlmann and other interested personnel. Marceau seconded the motion. Ayes 5. Motion carried.**

B. Marceau – Finance, Marinas – Marceau discussed recent reinvestments.

C. Tessness – Buildings, Building Inspection, Fire Lanes and Municipal Docks – no report

D. Folley - Animal Control, LMCC, Technology, and Southshore Senior/Community Center – Folley stated we need to upgrade our City Code. He suggested drawing on our residents who might be interested in upgrading the Code. LaBelle stated we do need to look at the re-codification process. Staff was directed to provide information on the scope of a possible re-codification procedure. Councilmembers discussed the need to re-codify the City Code.

E. De La Vega - EFD, Parks, Sanitation, and LMCD – De La Vega reported the Firefighters' annual dance is Friday, July 16.

F. Attorney's Report – no report

G. LaBelle - Public Works and SLMPD – LaBelle stated a number of junk yards have been identified, and the process will begin to get them cleaned up.

11. ADJOURNMENT

There being no further business, it was moved by Marceau to adjourn the meeting at 8:45 p.m. De La Vega seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk