

**MINUTES  
TONKA BAY CITY COUNCIL  
REGULAR MEETING  
January 23, 2007**

**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 LaBelle, Councilmembers Marceau, Folley, Tessness and De La Vega. Also present were City Administrator Sandin, Public Works Superintendent Kluver, City Attorney Penberthy, City Engineer Harri, and Recording Secretary Link.

**3. APPROVAL OF AGENDA**

**Folley moved to approve the agenda as amended: Move Item 7C before Item 7A. Tessness seconded the motion. Ayes 5. Motion carried.**

**6. MATTERS FROM THE FLOOR**

**A. Judd Brackett, 125 Woodpecker Ridge Road** - Brackett discussed the expired dock lease. He asked if it would be possible to have a resolution adopted that would outline the Council's intentions when the lease was not renewed for Woodpecker Ridge Road and to reassure residents that they do not want public docks at that location. LaBelle stated it is something that could be discussed at a future meeting. He understood the residents' concerns, and formalizing the action could be a step to reassure the residents.

**7. PUBLIC HEARING**

**C. Continued Public Hearing - Woodpecker Ridge Road Reconstruction** - LaBelle stated a workshop was held earlier this evening, and the group recommended approving a resolution to prepare plans and specifications for the improvement project which would include a mill overlay and a two-pump system. **De La Vega moved to adopt Resolution 07-07 ordering the improvement and preparation of plans. Marceau seconded the motion. Ayes - De La Vega, Marceau, Folley, Tessness and LaBelle. Motion carried.**

**A. Continued Conditional Use Permit Request - Tom/Mary Lauer, 305 Lakeview Avenue** - Penberthy left the Council table. Matt Brokl joined the Council in his capacity as acting city attorney. **Pat Wussow, Administrative Consultant** gave a background on the request since it was first initialized in September. The proposal is to construct a new home. A variance from the street side is required as well as the front yard. The property owner also owns 315 Lakeview Avenue which still has some outstanding issues. He reviewed the plans. Two proposed a/c units will not encroach upon the side yard setback. Wussow stated the average grade level is still an issue; there isn't a plan showing the correct elevation. Floor area ratio is proposed at 39.2%, and hardcover is proposed at 34.1%. A 5' rear yard variance is required. The lot area is

under the 20,000 square foot requirement at 10,246 square feet. The lot width is at 74.67 feet where 75 ft is required. Variances from zoning non-conforming, floodplain non-conforming demolish and rebuild variances are required as are required fill and lowest floor elevation variances. LaBelle asked what has changed since the last meeting. Wussow stated new plans have not been provided, but an explanation of the elevations has been provided. A letter was received relating to the outstanding issues at 315 Lakeview Avenue stating the applicants will bring outstanding issues into compliance. LaBelle asked Wussow if he had a recommendation. Wussow stated if Council appears they want to approve, they should place conditions that outstanding issues at 315 Lakeview be resolved. As far as the floor area ratio, he suggested some kind of action be taken. Marceau asked if there is some kind of timeline where they could reapply. Wussow stated under the ordinance, they can not submit the same plan. LaBelle opened the hearing for public comments. **Tom Lauer, 315 Lakeview Avenue** gave additional background on his request. The existing structure has been added onto a number of times over the years. What is proposed is to demolish the existing house and build another house more centered on the site. He stated this is the third attempt to design the new house. He believed the latest revision solves many of the earlier issues and enhances the neighborhood. He believed that floor area ratio is the only issue the Council has with this proposal. He asked the Council to approve the request. **Mike Sharratt, architect** distributed a diagram that helps to explain the buildable area on a typical lot in Tonka Bay and why variances are required. **Jim Penberthy, 295 Lakeview Avenue** distributed a copy of the definition of a basement. He stated the proposed crawl space adds bulk and mass to the site. He discussed his concerns about the impact on the floor area ratio. He also distributed a "white paper" from the City of Greenwood which discusses the relationship of floor area ratio vs. lot size. He also explained how ceiling heights add bulk to the structure. This and other new features such as vaulted ceilings add less floor area ratio calculable space and more bulk. He stated there have been no facts presented by the applicant to show that the floor area ratio should be more than thirty percent. He stated the Council should deny the request. He also discussed the roof angles and his concern about limiting solar access to his property. He stated this is important because Tonka Bay does not have a tree ordinance. He also discussed the need for 15' side yard setbacks to be met. He believed that this lot could support a 29% floor area ratio. He discussed the opportunity the Council has to start with a clean slate with the lot. He again asked that the application be denied. He also discussed his concerns about there not being the need for a soil analysis report. He stated that additional hardcover in the area of the mud room is not shown on the plans. He also discussed his concerns about the proposed French drain elevations. He believed it would always be full of water because of the elevations. The result would be flooding onto his property. There is no assurance that this will not happen. He stated a house of 3,000 square feet could be built on the lot that would not require any variances or conditional use permits. He stated that the applicant has not proven that all the CUP criteria have

been met, and they must be met to be approved. Lauer stated the criteria Mr. Penberthy is asking the Council to consider for this request is never considered for any other request. **Mary Lauer, 315 Lakeview Avenue** believed the scrutiny applied to this proposal is very unreasonable. She stated many of the things Penberthy said were untrue. Tom Lauer stated crawl space is not included in the floor area ratio calculation. He stated the 15' setback requirement is not a Tonka Bay ordinance, and the MCWD has already approved the water control on this lot. He stated they are trying to build a home that fits into the neighborhood. LaBelle closed the hearing to public comments. De La Vega stated there is a conflict between what we have and what we're getting. He believed there is a market trend, and the community is evolving. The question the Council needs to answer is if this is what we want. We either embrace and work with the market trend toward McMansions or don't. He stressed the need to have a worksession to discuss floor area ratios. LaBelle stated there isn't a magic number or formula that will work every time. Each case is unique. LaBelle stated the Council is trying to help the applicant to craft something that will work. He didn't think we were at that point yet. Lauer stated he wanted more input on what about this house is not appropriate. LaBelle stated the house appears too big for the lot, and the numbers bear that out. Tessness was concerned about the hardcover and resulting drainage issues. To a certain extent, he was concerned about the floor area ratio. Folley agreed the neighborhood is changing. Lot sizes are a challenge in Tonka Bay. Big houses don't fit on small lots. He was opposed to the conditional use permit. LaBelle asked Lauer if he would consider continuing the public hearing again. Lauer stated he would like to continue to work with the Council. He would be willing to work with Schoell Madson to address the Council's concerns. LaBelle explained the new process to work with the City Planner. The Council and applicants discussed the process with the City Engineer. Brokl reminded the Council what the definition is of a conditional use permit. It is up to them to determine what kind of conditions could be placed, and there hasn't been any discussion of the conditions this evening. **Marceau moved to continue the public hearing to March 27, 2007 based on the applicant's request to work with the new city planners. Mr. Lauer will sign a letter of understanding in regards to the costs he will incur to work with the city planner. Folley seconded the motion. Ayes 5. Motion carried.**

**B. Continued Variance Request - Tom/Mary Lauer, 305 Lakeview Avenue**  
- LaBelle opened the hearing to public comments. There were none. **Marceau moved to continue the public hearing to March 27, 2007 based on the applicant's request to work with the new city planners. Mr. Lauer will sign a letter of understanding in regards to the costs he will incur to work with the city planner. Folley seconded the motion. Ayes 5. Motion carried.**

Penberthy returned to the Council table.

**8. OLD BUSINESS - None**

**9. NEW BUSINESS**

**A. Schedule Workshop** - Sandin stated the Council has discussed holding a workshop to discuss floor area ratio. Possible days were suggested. LaBelle suggested it be held prior to the Council meetings in February. De La Vega explained why it would be better to have the meeting on a Saturday. Following discussion, it was determined a workshop would be held on the 13th of February at 6 p.m. prior to the regular City Council meeting to review the Comprehensive Plan.

**10. MATTERS FROM THE FLOOR**

**A. Bob Bragg, 110 West Point Court** - Bragg expressed a concern that floor area ratio will not be discussed as was indicated at the last Council meeting. He discussed his plans to build on his property. LaBelle suggested Mr. Bragg work with city staff to discuss his plan; there won't be any change in the floor area ratio in the near future.

**11. REPORTS**

**Sandin** - Sandin stated the SLMPD has requested an increase in the amount for the police reserve from \$500 to \$600. LaBelle stated it is not a budgeted item, and he would prefer not to approve it. Council concurred. A follow-up report from Metro West relating to 95 Sunrise Avenue was provided. Marceau asked if there are there any time limitations now that it has been secured. Penberthy explained the process the property would go through to determine if a nuisance exists. Penberthy suggested the fire marshal and health inspector be asked to visit the property with the property owners.

**Marceau - Finance, Marinas** – no report

**Tessness - Buildings, Building Inspections, LMCD, Municipal Docks, Fire Lanes** - no report

**Folley - Animal Control, LMCC, Technology** - no report

**De La Vega - Excelsior Fire District, Parks, Sanitation, and Southshore Senior/Community Center** - EFD meeting will be on Wednesday

**Attorney's Report** - no report

**LaBelle - Public Works and SLMPD** - SLMPD meeting

**12. ADJOURNMENT**

There being no further business, it was moved by Marceau to adjourn the meeting at 9:40 p.m. Folley seconded the motion. Ayes 5. Motion carried.

Attest:

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Clerk