

**MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
February 27, 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, City Attorney Penberthy, City Planner Ben Gozola, and Recording Secretary Link.

3. APPROVAL OF AGENDA

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

4. APPROVAL OF MINUTES - Worksession - February 13, 2007 and Regular Meeting - February 13, 2007

De La Vega moved to approve the minutes of the worksession and regular meeting of February 13, 2007 as written. Folley seconded the motion. Ayes 5. Motion carried.

5. CONSENT AGENDA - Addendum to MCIT Agreement

Sandin stated there is an agreement with MCIT for drug and alcohol testing of Public Works employees. There has been a decrease in the governmental regulation percentage. **Marceau moved to approve the Consent Agenda as presented authorizing the Mayor and City Administrator to enter into the agreement. Folley seconded the motion. Ayes 5. Motion carried.**

6. MATTERS FROM THE FLOOR

None

7. PUBLIC HEARING

A. Variance Request - Thomas/Christine Miller, 170 Brentwood Avenue - Ben Gozola, Planner reviewed the proposal using aerial photographs. He noted that 95% of the work proposed is interior. The existing garage will be utilized for two bedrooms. One small addition is proposed adjacent to the existing garage and involves a very small addition. The house will not extend any closer to Brentwood Avenue than it currently does. Three variances are required from the front yard setback from Brentwood Avenue and Florence Drive. The height of the structure will not change. Floodplain regulations require that fill extend out 15'. Every elevation is above the floodplain, so no variances are required. He reviewed the criteria as they relate to each variance request. He reviewed the hardship for this lot. The home was built outside of the building pad

creating the hardship. The applicants have not created the hardship. He noted correspondence from a resident raised concerns about building closer to the lake, but this is not the case. Given this is a cul-de-sac with only three homes and there are good sight lines, moving the driveway is not a concern. The applicants will need to verify whether there is an easement for the existing sewer line across the eastern portion of the property.

If one does not exist, applicants must provide an easement to the city. He also recommended a condition be placed on the approval that the existing driveway be removed. **The applicants' representative** was present to answer any questions. LaBelle opened the hearing for public comments. There were none. De La Vega stated he would be in favor of the request. He asked what would need to be done to determine where the easement is in existence. Gozola stated a surveyor could provide that information. Tessness stated he was concerned about the driveway location and if there would be any plowing issues. LaBelle was also concerned, but he believed the engineer's report sufficiently addressed the concern. Folley stated he would be in favor of the request. Marceau stated he used to live in the house, and he did not believe the driveway would be a problem. He supported the request. **Tessness moved to adopt Resolution 07-11 approving the front yard setback variance requests for Thomas and Christine Miller, 170 Brentwood Avenue based on the following findings of fact, conclusions, and subject to the following conditions:**

FINDINGS OF FACT

1. The only proposed footprint change to the home is a slight increase to the existing entryway deck and reconfiguration of the existing stairs. It is not foreseen that the proposal will impair an adequate supply of light and air to adjacent property which doesn't already exist.
2. The use of the property for a single family dwelling is not proposed to change as a result of this request. The average number of daily trips expected from this type of property will not change.
3. The possibility of fire will not increase as a result of the variance requests.
4. The proposed improvements will increase the home's value which will support or boost the value of surrounding properties. The proposed variances will not be in direct conflict with the intent of the zoning ordinance.
5. The Comprehensive Plan calls for this area of the City to be used for single family dwellings and for development to occur in an orderly fashion in a manner best for the community.
6. The structure was presumably built before the adoption of the current setbacks. The applicants have done everything possible to contain all proposed changes within the existing footprint, are not proposing to increase any already existing nonconformities, and are remaining within the allowed hardcover and FAR requirements. The applicants were not responsible for the existing nonconformities, and the proposed entryway addition would be less

nonconforming than other portions of the existing home. The stairs cannot be steeper than proposed and turn toward the west, extending all the way to the proposed driveway, thereby limiting the needed incursion into the required front yard setback.

7. Any interior improvements to an existing home with a minor addition which does not extend beyond the outermost footprint of the existing home is a right commonly enjoyed by most properties in the City. It is not unreasonable for a homeowner to request that stairs which provide access to the home be oriented to the front or driveway of the property.
8. The applicants are not responsible for the location of the existing home.
9. No special uses or privileges would be conferred by the granting of the requested variances.

CONCLUSIONS

1. The requests will not impair an adequate supply of light and air to adjacent property.
3. The requests will not unreasonably increase the congestion in the public street.
4. The requests will not increase the danger of fire or endanger the public safety.
5. The requests will not unreasonably diminish or impair established property values within the neighborhood or in any way be contrary to the intent of this Ordinance.
6. The requests will not violate the intent and purpose of the Comprehensive Plan.
7. The requests will not violate any of the terms or conditions of Section 1004.02 Subd. 4.
8. The requests do not deprive the applicants of rights commonly enjoyed by other properties in the same district under the terms of this Ordinance or deny the applicants the ability to put the property in question to a reasonable use.
9. The special conditions and circumstances causing the undue hardship do not result from the actions of the applicants.
10. Granting the variances requested will not confer on the applicants any special privilege that is denied by this Ordinance to other lands, structures or buildings in the same district under the same conditions.

CONDITIONS FOR APPROVAL

1. The applicants shall obtain all necessary permits and approvals from the City and other applicable entities with jurisdiction prior to any construction.
2. Construction to follow the survey as submitted.
3. No construction shall occur within any existing easements on the property.
4. The applicants shall give an easement to the City for the existing sewer line which runs across the eastern portion of the property if one currently does not exist.
5. A conforming stormwater management plan shall be submitted along with the future building permit application.

6. The variance shall expire one year from the date of this resolution; City Council approval will be required for any subsequent extension.
7. Remove existing driveway.

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

8. OLD BUSINESS

A. Woodpecker Ridge Road Docks - Sandin stated this item was brought to the Council by a resident on Woodpecker Ridge Road. The Council requested that staff draft a motion for them. Marceau stated he doesn't see the need for any motion. He wouldn't support anything be done there. Folley agreed with Marceau's comments. Penberthy suggested each Councilmember state their position on the request. LaBelle stated the concept of expanding the municipal docks to Woodpecker Ridge Road has never been a consideration. Marceau agreed with the Mayor, reiterating his own position. Folley and Tessness both stated they saw no need to develop this property. De La Vega stated he was also opposed to using the area for expansion. **Judd Brackett, 125 Woodpecker Ridge Road** stated it is more of an issue of peace of mind for the residents if a resolution were adopted.

B. Worksession Follow-up - Sandin reported on a worksession held prior to the February 13 meeting on the comprehensive plan. A request was made to compile a list of park projects which at some point will be prioritized, and a committee of residents formed to work on this. De La Vega stated it was his intent to form a committee to begin work on prioritizing the projects. De La Vega will take the lead on this project. **Marceau moved to approve the creation of a committee to advise the City Council on the trails and parks. Tessness seconded the motion. Ayes 5. Motion carried.**

9. NEW BUSINESS

A. Temporary/Seasonal Sales Permit at Tonka Village Shopping Center - Linder's Greenhouses - Sandin reviewed the request for a temporary/seasonal sales permit at Tonka Village Shopping Center by Linder's Greenhouses. She noted the location is the same as the previous year, north of the shopping center and east of the bowling alley. **John Eiss, Country Club Lanes** stated he didn't have a problem with the request if it will be in the same location. **Marceau moved to approve the request for a temporary/seasonal sales permit at Tonka Village Shopping Center for Linder's Greenhouses. De La Vega seconded the motion. Ayes 5. Motion carried.**

B. Lifeguard Services - Summer 2007 - Minnetonka Community Education - Sandin reviewed the request for lifeguard services for the 2007 season. A cost increase and schedule decrease is proposed. Increased health insurance costs and staff salaries were reasons cited for the cost. She stated cell phones will be provided this year, and the pay phones will be removed. De La Vega asked why indemnification and

liability were removed. It was noted the page was missing, and all information is the same as the previous year. Marceau asked what the rationale was to decrease the schedule. A representative of Minnetonka Community Education stated that there weren't any participants at the beaches. She stated it could be negotiated; however, they have a problem with staffing. She stated they could increase it by seven days, but there will be an increase in cost. LaBelle stated lifeguard services are a luxury. He would not be in favor of a cost increase. Councilmembers discussed having Public Works maintain the area past the time the lifeguard service ends for the season. De La Vega asked if there are any other options. Sandin noted that community services are cost effective. The Community Education representative noted that although there is an increase this year, it was still a decrease from 2004. Tessness asked if a multi-year contract is a possibility. Community Education representative stated one could be drafted. **Folley moved to authorize the Mayor and City Administrator to enter into agreement. De La Vega seconded the motion. Ayes 5. Motion carried.**

C. Tonka Village - Sign Permit Request - Folley moved to approve the sign permit request for The Bungalow. Marceau seconded the motion. Ayes 5. Motion carried.

D. Regular Council Meeting Start Time - LaBelle stated he would be in favor of starting meetings at 7:00 p.m. Marceau also supported the possibility. There was a consensus. It would be effective the first meeting in June. Tessness moved to direct staff to draft an ordinance amending the start time to 7:00 p.m. Folley seconded the motion. Ayes 5. Motion carried.

E. Pre-planning Application - Sandin stated the planners have suggested a pre-planning application so applicants can meet with the consultants. It will eliminate the city's need to recover costs. She requested a motion to approve the use of a pre-planning application and amend the fee schedule to add the \$250 fee. De La Vega felt that \$250 was too low considering the hourly rates of those involved. He suggested \$300. Folley moved to approve the use of a pre-planning application and amend the fee schedule to add the \$300 escrow. Marceau seconded the motion. Ayes 5. Motion carried.

10. MATTERS FROM THE FLOOR

None

11. REPORTS

Sandin – no report

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 – no report

Attorney's Report – no report

LaBelle - Public Works and SLMPD – LaBelle discussed his conversation with Jessica Sandin about creating a bulk e-mail tool on the city's website. Reminders, newsletters, water meter readings, etc. could be sent via e-mail with the creation of this tool. Staff will implement the tool in the near future.

12. ADJOURNMENT

There being no further business, it was moved by Folley to adjourn the meeting at 8:35 p.m. Marceau seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk