

**MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
April 22, 2008**

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 Loftus, City Attorney Penberthy, and Public Works Superintendent Kluver.

3. APPROVAL OF AGENDA

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

4. CONSENT AGENDA

Loftus stated a worksession is proposed on June 10 for municipal officials to discuss non-point source education (NEMO). Julie Westerlund from the MCWD would be presenting the session. The second meeting is proposed for all councilmembers of the four cities to discuss the strategic plan for SLMPD at the Public Safety building in the lower level. **Marceau moved to approve the consent agenda setting a worksession for a NEMO presentation on June 10, 2008 at 6:00 p.m. and a joint meeting with SLMPD cities on May 14, 2008 at 7:00 p.m. in the lower level training room of the SLMPD facility. De La Vega seconded the motion. Ayes 5. Motion carried.**

5. MATTERS FROM THE FLOOR

None

6. PUBLIC HEARING

None

7. OLD BUSINESS

A. LANDSCAPING IN FIRELANE AT 30 FLORENCE DRIVE – Loftus stated the owner of 30 Florence Drive is proposing to landscape a portion of the Florence Drive firelane. It has been graded for drainage purposes to accommodate the new house. A letter explaining their request has been provided. A building permit was issued in 2007, and there was an engineering review to accommodate their hardcover and grading into the firelane at a steep slope to accommodate the tree line. There is discussion now that it may be difficult to mow, and the residents would like to propose landscaping the area. They were given a right-of-way permit and a \$10,000 escrow to assure the work is done as proposed in the survey. She explained the firelane is 60' wide and gives public access for small boat launching. She and Kluver visited the site and looked at their first plan. We requested they scale down what they are requesting which has been done. If the

Council agrees with the proposal, an agreement would be prepared by the City Attorney between the property owners and the City. She stated written comments have been submitted by Todd Ogin of 105 Florence Drive, and there are residents present to speak on this proposal. LaBelle stated this is not a public hearing, but he would take comments after hearing from the property owner. **Rich Kofski, 30 Florence Drive** stated the City approved the grading change, and they would like to just naturally drain from the site. From a safety standpoint, he would not like to construct a big retaining wall. He stated he would follow any recommendations the City makes. **Sue Anderson, 55 Florence Drive** stated the firelane should be kept as is, and residents should not be allowed to encroach on them. She presented a petition from the residents opposing the request. She also submitted pictures showing the encroachment. She believed that the City will be opening a can of worms if he is allowed to use the firelane. She was concerned about who will be policing the request ten years down the road. **Duane Anderson, 55 Florence Drive** stated nothing addresses the house to the south on the property survey. Woodlane Avenue behind this house drains across this property to the firelane. There won't be a low spot any more to drain properly. The property at 15 Woodlane Street will have a flooded basement as a result. He cited several examples of instances in the past when residents were asked to remove structures in firelanes. He was also concerned about liabilities issues in the future if someone should get hurt. **Cindy Kohman, 115 Brentwood Avenue** stated the original intent of the firelane surveying project was to prevent encroachments of this nature. She stated fill should not have been allowed at this location. **Steve Fisher, 70 Florence Drive** stated firelanes are sacred and should not be touched. **Jeff Wuensch, 90 Brentwood Avenue** was concerned about setting a precedent with allowing residents to use the firelanes as if they were their own property. **Jim Kohman, 115 Brentwood Avenue** stated the house should have been built in the space provided without encroaching on the firelane. Tessness stated he would feel the same way if there was a firelane in his neighborhood. The only way to address the drainage is with boulders. Marceau asked if the plan shows boulders. Kofski stated there are boulders. De La Vega stated the City Council never reviewed this request, because it met all the required setbacks. He agreed that firelanes are public property. The situation is there's a very large house on a very large elevation that will be shedding water. We need to find a way to address the runoff from this property. He was willing to listen to alternatives and explore options. He was concerned about drainage into adjoining properties. Kofski stated there should not be a problem with the drainage based on what his engineer has stated. **Jim Kohman, 115 Brentwood Avenue** suggested a curb be installed in the driveway to direct drainage to the lake. Drainage should not flow into the neighbor's yard. LaBelle noted the building permit was approved subject to an approved drainage plan. We're here to discuss what is being requested right now. Folley stated he didn't believe Kofski should use the firelane at all. The firelane should be well marked and identified. He had many concerns about the proposal. Marceau stated we need to deal with what we have now and not what was already approved. He stated the access

to the lake should not change. Maybe we should be compensated for “giving” him a buffer area. Folley believed it would be a “slippery slope” – the land should be considered similar to a city park. LaBelle stated he doesn’t propose giving residents the use of the firelane. The original application did not require a variance or conditional use permit. He believed that a denial of the request is the proper course of action. Folley stated we need to impress on the engineer that the right-of-way and firelane are not the same thing. Marceau asked if the current engineer should review the drainage as the original plan was reviewed by a different engineer. He was concerned if no action is taken, bigger problems may be created. LaBelle was concerned about our legal authority to change what has already been granted. Penberthy stated you have the authority to ask for another engineering review if there are new facts that need to be investigated. He stated if you do nothing, you are allowing an encroachment on the firelane. He recommended action be taken with specific direction. Marceau stated he would prefer tabling this issue to gather additional information. LaBelle stated it is clear there are many unanswered questions, and it is clear the property owner wants to work with the City. LaBelle stated the Council wants a clear understanding of the public land that will be used for drainage. The objection is the placement of boulders, shrubs, etc. that encroach onto the firelane. We are basically asking for another review of the submission. **Marceau moved to continue discussion of this item requesting another review for other options. Folley seconded the motion.** Council noted that the applicant has the option to withdraw his request, and Mr. Kofski had that understanding. De La Vega stated he wasn’t sure he has seen what other options exist to solve the drainage issue. **Ayes 5. Motion carried.**

8. NEW BUSINESS

A. REQUEST FOR FOURTH OF JULY FUNDING – Linda Murrell, Chamber of Commerce discussed the plans for the Fourth of July celebration which is community wide. The Minnesota Orchestra will return this year. The goal is \$25,000 this year for fireworks. There will be a “Feed the Fireworks” Day on June 2 when area restaurants will give a portion of their sales towards the cost of fireworks. LaBelle noted that \$1100 was budgeted for fireworks this year in the 2008 budget. Marceau suggested asking for donations through the newsletter and website. **Marceau moved to approve the expense of \$1100 from the General Fund to SLMPD for traffic control. De La Vega seconded the motion. Ayes 5. Motion carried.**

B. VARIANCE EXTENSION REQUEST – Loftus stated Brad and Cynthia Imes of 125 Crabapple Lane have requested an extension of their variance request from April of 2007. These were extended once last year. She asked Council to consider waiving the 30-day request extension and to renew the variance for an additional year. **Brad Imes, 125 Crabapple Lane** explained his problem with the contractor. The footprint of the original plan approval may be shrinking. They would like to move forward

with the construction in the next year. LaBelle stated he is in favor of waiving the 30-day requirement and extending the variance an additional year. Tessness and De La Vega were also in favor of extending the request an additional year. **Marceau moved to waive the 30-day request requirement. Folley seconded the motion. Ayes 5. Motion carried. Marceau moved to adopt Resolution 08-10 approving the variance extension to March 27, 2009. Folley seconded the request. Ayes – LaBelle, De La Vega, Folley, Tessness and Marceau. Motion carried.**

C. LIFEGUARD SERVICES – Loftus stated the proposed agreement is for 2008. The phone will not be included. The cost increase is 7%. De La Vega asked if the cost is shared with Shorewood for Crescent Beach. Loftus stated it is and noted Shorewood executes their own agreement. Councilmembers discussed the cost associated with sharing the beach. LaBelle stated the beaches are well used, and he believed the service should continue to be provided. De La Vega asked where the liability would lie if the service is not provided. Penberthy stated it must be posted on site that there are no lifeguards on duty. Marceau suggested it could get to a point where it is too expensive. At that point, the hours should be shortened. De La Vega suggested a possibility of reducing the hours in August based on the usage. **Folley moved to authorize the Mayor and City Administrator to enter into a contract with MCES for lifeguard services for 2008 in the amount of \$10,108.30. Marceau seconded the motion. Ayes – 5. Motion carried.**

D. NEW HIRE – Loftus stated interviews took place on Friday, April 4. Staff is recommending Mary Vath be hired as the new bookkeeper. We are recommending her official date of hire be August 4, 2008 at \$17.56 per hour. **De La Vega moved to approve the hiring of Mary Vath be hired as the new bookkeeper at \$17.56 per hour. Marceau seconded the motion. Ayes 5. Motion carried.**

9. MATTERS FROM THE FLOOR

None

10. REPORTS

A. Loftus – Loftus stated the legislative update has been provided. The 2008 assessment and sales folder for properties in Tonka Bay show a valuation increase in lakeshore properties of 1.3% and an increase in non-lakeshore properties of .8%. She reminded residents that the County would hold the Open Book meeting on Thursday, May 1 at 5:00 p.m. Doug Babcock, the LMCD representative, will speak at the May 13 meeting.

B. Marceau – Finance, Marinas, - no report

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

D. **Folley - Animal Control, LMCC, Technology** – no report

E. **De La Vega - EFD, Parks, Sanitation, and Southshore Senior/Community Center** – De La Vega stated no decisions have been made relating to the Southshore Center. The EFD Board will have its first review of the EFD budget on April 23.

F. **Attorney's Report** – no report

G. **LaBelle - Public Works and SLMPD** – LaBelle stated there have been 3-4 sessions to review the SLMPD's Strategic Plan. The culmination will be a review by all cities at once which is the purpose of the meeting previously approved for May 14 at 7:00 p.m. He noted there are budget increases proposed to add officers, add technology, and to create a long-range planning for building improvements.

11. **ADJOURNMENT**

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

Attest:

Clerk