

**MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
May 22, 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, and Recording Secretary Link.

3. APPROVAL OF AGENDA

Marceau moved to approve the agenda as amended: Remove Item 7B and replace it with Item 7C. De La Vega seconded the motion. Ayes 5. Motion carried.

4. APPROVAL OF MINUTES - Worksession - May 8, 2007 and Regular Meeting - May 8, 2007

Marceau moved to approve the minutes of the worksession and regular meetings of May 8, 2007 as written. Tessness seconded the motion. Ayes 5. Motion carried.

5. CONSENT AGENDA

None

6. MATTERS FROM THE FLOOR

A. Jeanine Kelly, 20 Cedar Street discussed her concern about the street light located across from her residence. It is very obtrusive, and she requested the city consider having it removed. LaBelle indicated staff would review the issue.

7. PUBLIC HEARING

A. Variance Request - Steven Kelley, 30 Cedar Street - Ben Gozola, City Planner reviewed the request for two variances from the front yard setback to build a detached garage. He reviewed aerial shots of the property. He stated the first variance requested is a 21' variance from the required 50' front yard setback. The second variance would be for an 11' variance from the required 50' front yard setback. The request conforms to hardcover and floor area ratio requirements. Gozola noted the proposed garage conforms to height requirements. He stated the request is not reasonable as there is a conforming location where the garage could be built. The garage in a conforming location would then access Aspen Street. He stated he did not see any unique circumstances to permit the garage location as proposed. He stated the request would not alter the character of the neighborhood, impair an adequate supply of light, or impact adjacent properties. The proposed garage would not decrease property values.

He did not believe there was a hardship to support approval of this request. He noted there is one significant tree in the area where he proposes the garage be constructed. Gozola stated the 60-day rule expires on June 15. Folley asked where the driveway would access on both garages. Gozola replied the applicant's proposed garage would access Cedar Street, while Planning's proposed driveway would access Aspen Street. **Steven Kelley, 30 Cedar Street** stated the main reason why he would like the garage in the proposed location is because of significant trees. In addition, with the garage on the south side, there is a significant distance to walk to get into the house. He noted that the existing tuck-under garage would be remodeled into a basement. LaBelle opened the hearing for public comments. **Jeanine Kelly, 20 Cedar Street** stated the city's planned location would cause the removal of several valuable trees. She supported Mr. Kelley's plan. Folley believed having two front yards is a hardship. He was concerned about access onto Aspen Street. It is very wooded and narrow. He would love to have the trees remain. Tessness stated he would like to see it staked out to see exactly where it is going to be. He was not in favor of tree removal. He believed the hardship was having two front yard setbacks. Marceau stated there are other variables involved, and he believed there is a hardship. He believed the proposed location is the best choice. De La Vega stated there would still be good visibility at the proposed location, and he was not in favor of tree removal. He supported the request. LaBelle agreed with De La Vega's comments. He concurred that there is a hardship. In the past, the Council has granted latitude to corner lots. He supported the request. **Folley moved to adopt Resolution 07-21 to approve two variances from the front yard setback (11' and 21') for Steven Kelley, 30 Cedar Street to construct a detached garage based on the following:**

FINDINGS OF FACT

- 1. The requested variance was found to satisfy all criteria outlined by code for the granting of such a request;**
- 2. Construction of the garage in a conforming location would require the removal of two significant trees and would necessitate a new driveway connection to Aspen Street;**
- 3. The grade of Aspen Street does not lend itself as an appropriate location for a new driveway for the property;**
- 4. The vegetation along Aspen Street does not lend itself as an appropriate location for a new driveway for the property;**

CONCLUSIONS

- 1. The requested variances were found to satisfy all criteria outlined by code for the granting of such a request.**

CONDITIONS

1. **The applicant 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 variance shall expire one year from the date of resolution; City Council approval will be required for any subsequent extension.**

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

Penberthy removed himself from the Council table. Soren Mattick joined the Council in his capacity as Acting City Attorney.

B. Continued Variance/CUP Request - Tom and Mary Lauer, 305 Lakeview Avenue - Marceau noted that additional information was received and has not been reviewed. He stated he would not be in a position to vote on this item. Sandin stated the new plans are basically the same plans as were sent out in the packet except for more deck detail and information on the rain gardens. Folley echoed Marceau's sentiments. Sandin stated an e-mail was received that is included in the staff report. No additional information has been received. Gozola stated the engineer's report has been completed. Marceau believed it all should be discussed at the next meeting when the conditional use permit for roof pitch is considered. Mattick stated the public hearing can be opened, comments taken, and continued to the next meeting. LaBelle opened the hearing for public comments. **Tom Lauer, 305 Lakeview Avenue** stated the engineering report, to his understanding, was completed. He understood the engineer had recommended approval. He stated it isn't something new they are trying to spring on the Council. He wanted the record to be clear that this isn't a delay because of information not be provided. He expected that everything the Council needed would be in front of them tonight. LaBelle explained that the Council needs more time to review the information received prior to tonight's meeting. **Mary Lauer, 305 Lakeview Avenue** stated it seems unclear to her why the engineer cannot explain his report. They need to move forward on their project. It is unprecedented that they have to go through their plan with a fine-toothed comb. LaBelle closed the hearing. **Marceau moved to continue the hearing to the June 12 meeting. Folley seconded the motion. Ayes 4-1. Tessness voted against the motion. Motion carried.**

Soren Mattick removed himself from the Council table, and Penberthy joined the Council.

8. OLD BUSINESS

A. Woodpecker Ridge Road Dock Issue - Sandin stated the residents requested resolution of the dock issue at the last meeting. Judd Brackett is present to comment on the progress of complying with dock removal. The residents intend to move forward with discussions to discuss the purchase of Woodpecker Ridge Road when and if there is compliance with dock removal. **Judd Brackett, 125 Woodpecker Ridge Road** stated decking from the docks has been removed from the Eliot and Szarcynski properties. The posts cannot be removed manually. The platform from 145 has also been removed. He suggested that working within the spirit of this, he believes that a barge would have to remove the posts. He hoped this would be satisfactory to get discussions moving forward. LaBelle stated we are looking for compliance, and discussions do not have to begin on June 1. Tessness stated it is progress, but it is not compliance. He believed the posts are worse looking than what was originally there. He asked if the residents are going to be prepared on June 12 to bring a plan or petition to move forward. Brackett discussed the difficulties of trying to get twelve people to move in the same direction. He stated they would like to get conversations started. LaBelle stated the residents approached the City with the suggestion to purchase the street. All the city is asking is compliance with the dock removal. Brackett stated it would be the residents' intent to come to the June 12 meeting with the requested information. He stated the ideal time to take the posts out is in the winter. LaBelle encouraged Brackett to continue the effort. He believed the residents should each take their individual responsibility. **Bob Haselow, 225 Woodpecker Ridge Road** asked if the permanent dock could remain. LaBelle stated the permanent dock was an exception to the removal and could remain.

9. NEW BUSINESS

A. Adopt Resolution Approving Seal Coat Bids - Kluver reviewed the bids received for the seal coat application. The low bid was \$92,938.30. Tonka Bay's share would be \$32,899.00. If the Council is in agreement, he recommended the attached resolution awarding the bid to Pearson Brothers be adopted. De La Vega asked if the entire city would be done. Kluver explained that a third of the city is seal coated each year. He explained how the quantities are broken down to separate into each city's responsibility. De La Vega asked if seal coating has a three-year life cycle. Kluver stated after three years, it is done again to prevent complete road rehabilitation. LaBelle believed Tonka Bay has some of the better looking streets in the Lake Minnetonka area, and he supported the seal coat program. **Tessness moved to adopt Resolution 07-22 approving the low bid of Pearson Brothers in the amount of \$92,938.30, with Tonka Bay's share at \$32,899.00. Marceau seconded the motion. Ayes - De La Vega, Marceau, LaBelle, Marceau, and Tessness. Motion carried.**

B. Review Draft 2008 LMCD Budget - LaBelle stated the City doesn't have any veto power over this budget. The budget will be discussed at a meeting this week, and Sandin and De La Vega will attend. Any comments on the budget can be taken to the meeting. De La Vega was concerned about the proposed staff increase with no offsetting revenue increase to cover the cost. Sandin stated the information provided is preliminary in nature. LaBelle suggested that staff invite Doug Babcock to attend a meeting in June to update the Council on the LMCD.

C. Schedule Workshop for Ordinance Review - Sandin stated the Development Review Committee have identified nine items that can be reviewed at a workshop. She suggested June 26 at 6:00 p.m. **Folley moved to set Tuesday, June 26, 2007 at 6:00 p.m. for a worksession. De La Vega seconded the motion. Ayes 5. Motion carried.**

10. MATTERS FROM THE FLOOR

None

11. REPORTS

Sandin - Sandin reviewed the Open Book meeting memorandum provided by the Hennepin County Assessor. She reviewed a survey initiated by the Parks and Trail Committee which would gauge park needs and desires for the future. The intent is to put it in the June newsletter. She welcomed any input or suggestions. De La Vega stated it is an attempt to gauge what the residents like and don't like about the parks. Sandin distributed a request from a resident to look into a zoning change that would prohibit time sharing in the city. She suggested the DRC look into the possibility. Tessness asked if it conflicts with the existing ordinance. Sandin stated the resident wants the ordinance change to prohibit this. Penberthy stated the concern is what the real estate point of view would be. Time share means so many different things to so many people. Marceau questioned whether anything should be done if the time share hasn't happened yet. LaBelle asked Sandin to contact the League of Minnesota Cities for any advice they might have to offer.

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 - The Parks & Trails Committee is starting to evaluate each park and will meet again on June 5.

Attorney's Report - no report

LaBelle - Public Works and SLMPD - no report

12. **ADJOURNMENT**

There being no further business, it was moved by Marceau to adjourn the meeting at 8:50 p.m. Folley seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk