

**OFFICIAL MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
June 9, 2015**

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 De La Vega, Councilmembers Ansari, Clapp and Grothe. Councilmember Anderson was absent. Also present were City Administrator Crawford, City Attorney Penberthy, and Public Works Superintendent Bowman.

3. APPROVAL OF AGENDA

Clapp moved to approve the agenda as submitted. Ansari seconded the motion. Ayes 4. Motion carried.

4. CONSENT AGENDA

Clapp moved to approve the consent agenda as presented approving:

A. Regular Meeting Minutes of May 26, 2015 as amended: Page 2, second sentence – he noticed the water fund totals were significantly less than the prior year; Page 3, 8A, second paragraph, prohibiting deer feeding was the highest action on the survey; Page 5 of 6, a job opening advertisement has been placed to replace the Interim Police Chief. Ansari seconded the motion. Ayes 4. Motion carried.

B. City Planner Transition

Crawford stated we currently use WSB for our Engineering services. Our current Planner, Kelsey Johnson, has elected to not return to work following maternity leave. WSB is proposing that Erin Perdu be appointed to the position.

De La Vega stated he has asked staff to monitor the Planner's performance closely as time progresses.

Clapp moved to approve the City Planner Transition plan. Grothe seconded the motion. Ayes 4. Motion carried.

5. MATTERS FROM THE FLOOR

None

6. SPECIAL BUSINESS

None

7. **PUBLIC HEARINGS**

None

8. **OLD BUSINESS**

A. **Summer Hours for Public Works**

Bowman stated the letter from the Union is available now. He asked the City Attorney for his input. Penberthy stated it is something that we would really like to do, but Council needs to know some of the background. He reviewed the current union agreement. He stated we need to search for some way to amend the union contract, and the proposal permitted is not permissible. He discussed the need to pay overtime and noted the Council can do what they want to do but would need to pay the overtime.

Bowman stated it gets down more to a contractual deal the way it is written. Penberthy stated the provided Memorandum of Understanding is an amendment to the union contract.

Mike Wegner, Staff Member stated there was a verbal agreement when the last contract was negotiated to allow this on a trail basis. Nothing ever came of it.

De La Vega stated the issue Penberthy brings up is that we violate the contract if we do this.

Grothe asked if there is a way to amend the Contract. Penberthy stated the Contract is clear that both parties waive the right to amend it during its life which ends 12-31-16. Part of the reason for having a waiver is to have the terms set until the Contract expires. It is language that is usually in a contract.

Clapp asked for clarification of the statement in the Memorandum of Understanding indicating that the Union is in favor of whatever Mike and Todd want. Penberthy believed someone was told that. The Memorandum of Understanding that we have right now refers to the overtime itself. If we were to go along with that, we still face the issue of overtime. De La Vega stated there are no potential reopening points for a new Contract at this time. He stated sometimes there are reopeners for health benefits.

Ansari asked what the math on the cost of overtime would be. Penberthy

stated we could calculate the dollars and figure out the cost of going with a different schedule. The cost could then be balanced to the benefit of the City.

Ansari asked if there could be parameters for summer hours. Penberthy stated that could be done. The City has the authority under the existing contract to do that.

Clapp asked how other cities are doing that. De La Vega stated it was negotiated up front. Penberthy stated this is something we could include in the next union contract. Councilmembers calculated the cost of additional overtime for working over eight hours a day. Grothe stated in future negotiations this item could be addressed.

Clapp moved to change the schedule for the two Public Works employees (four 9-hour days and one 4-hour day) and allow up to four hours each for each of the two employees for overtime every week until Labor Day until the next union contract is negotiated. An additional option to use comp time was discussed at the discretion of the Public Works Superintendent. Grothe seconded the motion. Ayes 4. Motion carried.

B. MnWARN

Marty Glynn, MnWARN Regional Director discussed the history of the MnWARN program since its inception following Hurricane Katrina. He also discussed the mission to bring in help during times of need. He stated the last major event was last year when there were heavy rains throughout Minnesota. He stated there is also an emergency contact network; whereas, MnWARN is here to help right away. The activation process goes through the State of Minnesota Duty Officer who will then contact a Regional Director. He explained how the MnWARN network responds to any given event. He noted that even during non-events, Tonka Bay is allowed to borrow equipment from other MnWARN members.

Clapp stated it is a great program and he supported it.

Ansari asked how long it took to initially set up the program. Glynn discussed the inception in 2006. He also noted the first event was in 2010 and discussed the great response to the program.

De La Vega asked what would be needed for activation. Glynn stated a phone call. If necessary, formal action could be taken to declare an emergency after the activation.

Wegner stated he really believes in MnWARN. He stated he knows there is a mutual aid agreement with local cities. He was concerned about what would happen when he is working alone during a local event and nearby cities are busy.

Penberthy stated it looks like a resolution is needed to authorize the execution of the agreement. De La Vega stated that can be brought back to the next meeting.

C. Deer Feeding

Crawford stated at the last meeting staff was directed to format the language from the City of Shorewood relating to deer feeding in Tonka Bay. The ordinance language has been included and asked for feedback.

De La Vega asked if there were any additional comments from the Council. Grothe stated he is mixed in some respects and questioned the purpose of whether increased population of deer should be a consideration. He also believed the sentence relating to distance should also be changed.

De La Vega discussed proposed changes to the language. He suggested the language be streamlined and minimized down to the core to address safety and disease issues.

De La Vega stated he believed there are MCWD ordinances that restrict the location of feeding devices. It is possible to enforce this in an indirect way and asked for input.

Ansari stated she would like to see the possibility of keeping this alive by enforcing it through an MCWD ordinance. She was concerned about whether the deer problem is affecting more than a few areas in the City.

De La Vega stated it is a concern we have and an issue we have to deal with.

Ansari suggested considering other enforcement alternatives.

We can't always rely on other cities' ordinances to take care of our situations.

Grothe stated he liked doing the ordinance because Shorewood is our land neighbor. We are defeating their ordinance by not having one as well. Ansari agreed if we were experiencing major issues in other parts of the City.

De La Vega stated the survey garnered the most response for deer problems. He asked if there are any concerns about having an ordinance.

Clapp stated he is opposed to having a deer feeding ordinance. He believed residents should be able to do what they want to do on their own property.

Penberthy stated in the past the City has reached out to homeowners associations to see if they want to take up the issue on their own agendas. The theory is that is the governing body of a neighborhood.

De La Vega suggested as a first step to do the proposed language changes, look at the Watershed ordinance, the City's wetland buffer zone ordinance, and continue to debate this topic. We also need to put in front of the homeowners' associations.

Ansari asked if we should reach out to Shorewood for information on enforcement issues and/or concerns.

De La Vega stated this item will be reviewed again at the next meeting as well as the information from MCWD and enforcement information from Shorewood.

Councilmembers discussed wetland delineation, buffer determination, and the enforcement process for violations.

Dean Pierson, 115 West Point Court understood the reluctance to have more laws. He knows of two people who are feeding deer. He stated he talked to someone at Shorewood City Hall who indicated they have had two complaints in six years. They have had very minimal problems with the enforcement.

9. NEW BUSINESS

A. Continued First Reading – Section 910 Amendments

De La Vega stated he understood this was two separate problems. On the

one hand, the police are saying they feel they cannot enforce the signage stating the resolution number. The language that our prosecuting attorney is proposing is less definitive than it needs to be. It doesn't define the area in question or the trailer definition. Will we solve this problem if we change the resolution to an ordinance?

Penberthy stated we have a situation where the officers get complaints on boat parking. They will not issue tickets because the prohibition is based on a resolution instead of an ordinance. The prosecuting attorney is also saying that what we have is not working. We rely upon the police and the prosecutor to be our experts. They are saying do an ordinance, this is how to do it, and if it is done this way, we can enforce and prosecute.

Crawford noted from her e-mails that the police do not have an ordinance number to put on the ticket. Penberthy discussed the enforcement issue. He discussed how the issue was first raised prior to the adoption of the resolution.

Councilmembers discussed how the environment has changed over the years. In the past, there were more trailers on the streets. They also discussed trailer parking on private properties and setting a time limit when trailers can be parked.

Penberthy stated the problem is an officer may have one problem in three years and cannot issue a ticket. He stated that is why we need to have information on violation history.

Grothe stated he thought the language is over complicating the situation.

De La Vega suggested a resolution refer back to an ordinance. Penberthy stated it wouldn't pass muster because you can all enact an ordinance under statutory rules.

De La Vega stated the first step is to have the officer tell the trailer owner to move the trailer.

Grothe stated he would like to table this and bring it back if we hear there is an issue.

De La Vega suggested we have a conversation with police officers and our prosecuting attorney regarding interpretation.

- B. Temporary/Seasonal Outdoor Sales Permit – Untiedt’s Garden Market**
Clapp moved to approve the request for a temporary/seasonal outdoor sales permit for Untiedt’s Garden Market. Grothe seconded the motion. Ayes 4. Motion carried.

C. Excelsior Fire District – 2016 Draft Budget

Ansari stated information is being brought forward faster this year. She stated the proposed budget is only 1.5% increase for the City, or about \$2,400. She stated the EFD will become tax exempt in July of 2017.

Ansari discussed the possibility of sharing an administrative employee with Chanhassen so that the person would become full time between the two positions.

De La Vega stated he would like more clarification on the cost of benefits for the position. He stated it will cost us more in insurance and benefit costs. In practical reality, what is the plan when Chanhassen hires a full time person, and this person goes back to part time for EFD alone?

Councilmembers discussed proposed salary increases.

De La Vega stated there are no changes in equipment and staffing to address the changing environment which is now fifty percent medical calls.

Councilmembers discussed proposed staff additions.

Ansari stated there is a need for a larger discussion about the future of the EFD.

De La Vega stated the budget does not address the new environment of the fire department. On a different note, the EFD Relief Association is required to have an audit, and they’ve decided the cities should pay for it.

Ansari stated the Board had suggested the Relief Association pay half.

De La Vega believed any extra we have to pay for the pension fund is a slap in the face after the way we were treated last year.

This item will be discussed at a future Council meeting.

10. MATTERS FROM THE FLOOR

None

11. REPORTS

- A. **Administrator** – Crawford stated there will be a Lake Minnetonka regional trail work session on June 17. There will be an open house on Wednesday, July 15. De La Vega stated he believed experts should make the decision about the right option for a crossing rather than have residents vote on what they want. Crawford stated the police chief hiring process will begin on June 17. A DRC meeting was held to review various applications. A quarterly summary of all permits will be provided if the Council agrees at future meetings.
- B. **Anderson - Finance, Fire Lanes and Public Access, Technology** – absent
- C. **Ansari – EFD, Sanitation and Recycling, Southshore Community Center** – no report
- D. **Grothe – Building Inspection, Municipal Buildings and Grounds, LMCC** – no report
- E. **Clapp - Parks and Playgrounds, LMCD, Commercial Marinas, Municipal Docks** – no report
- F. **Attorney's Report** – no report
- G. **De La Vega - Public Works, SLMPD, Administration** – De La Vega stated he will be meeting with area mayors to discuss closed session item. De La Vega stated there are Plant Place signs on the fence at Tonka Village. The other ones we've had questions about are the signs at the bus garage. Grothe stated there are also banners at the Danberry Building. Crawford will research the topic.

12. ADJOURNMENT

There being no further business, it was moved by Grothe to adjourn the meeting at 9:10 p.m. Ansari seconded the motion. Ayes 4. Motion carried.

Attest:

Clerk