

**MINUTES  
TONKA BAY CITY COUNCIL  
REGULAR MEETING  
September 11, 2007**

**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 were: Mayor LaBelle, Councilmembers Marceau, Folley, Tessness and De La Vega. Also present were Public Works Superintendent Kluver, City Attorney Penberthy, City Engineer Harri, City Planner 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 and Regular Meeting - August 28, 2007** - Tessness moved to approve the minutes of the worksession and regular meetings of August 28, 2007 as written. De La Vega seconded the motion. Ayes 5. Motion carried.

**5. CONSENT AGENDA - Accounts Payable**

Marceau moved to approve the Consent Agenda as presented. De La Vega seconded the motion. Ayes 5. Motion carried.

**6. MATTERS FROM THE FLOOR**

None

**7. PUBLIC HEARING**

**A. Assessment Hearing - Woodpecker Ridge Road Improvement Project** - **Scott Harri, City Engineer** discussed the assessment hearing process and the project. He explained the City Council would determine the assessment process. Any written objections must be presented at this time. He stated the road has a long history. The proposed improvement includes two storm water pumping stations, a berm, and an overlay of the existing street. Part of the project will involve mitigation which will occur in Wekota Park. Financing of the project will consist of assessments to private property with a portion paid by the City. LaBelle reviewed discussion points prior to the opening of the public hearing. He stated he would like to hear from the residents before any discussion takes place at the Council level. He opened the hearing for public comments. **Robert Haselow, 225, 235, 245 Woodpecker Ridge Road** stated the road has been a problem for many years. He gave a background of the road history which included the construction of a berm in 2004. He didn't think it was appropriate to put costs from 2004 into the assessment proposed now. He also believed the assessment should be on a

linear foot basis. He believed the city should have to pay their share of the one side of the street. He believed the assessment proposed for the property at 255 Woodpecker Ridge Road is not equitable, because 31' of it is on the city-owned fire lane. He filed an objection to the assessment for 225, 235, and 245 Woodpecker Ridge Road. **Carol Kurilla, 255 Woodpecker Ridge Road** filed a written objection to the assessment for 255 Woodpecker Ridge Road. A written objection was also received from Mark and Rosemary Wentzell, 175 Woodpecker Ridge Road. LaBelle stated that Judd Brackett, 125 Woodpecker Ridge Road, filed a letter in support of the assessment. Norma Buxton, 215 Woodpecker Ridge Road, filed a written objection to the assessment. LaBelle closed the hearing to public comments. Harri stated the public hearing could be continued to a special board of review to hear the residents' concerns, and the Council could negotiate some sort of appeal. This would have to be done within thirty days. LaBelle asked what would be involved with removing the berm. Kluser noted that staff could remove the berm. Penberthy stated the problem with adjourning to the next meeting is the construction could not be completed this year. The other option is to not go forward with the project. There would be no need to adjourn. Tessness stated he would like to look at the written objections to see if they can be resolved. Marceau didn't think there was any reason to move forward, and the city should just cut their losses. Folley was concerned about going forward with the project. Harri stated the timeline is "tight" now based on the construction season. The kind of bituminous proposed cannot be laid if the temperature is less than 50 degrees. The mitigation would not be required if the berm is removed. Some work would need to be done to restore the integrity of the wetland under the berm. De La Vega was of the opinion that we should not move forward at this point based on objections received. He was disappointed where we ended up with this project. Penberthy suggested a special meeting could be scheduled prior to the next Council meeting with the understanding that the project would not move forward this year. **Folley moved to adjourn the public hearing and schedule it for the City Council meeting of September 25, 2007. Marceau seconded the motion. Ayes 5. Motion carried.**

**B. Continued Public Hearing - Ordinance 2007-4 - Survey Requirements, Building Permits, Certificate of Occupancy, and Variance Procedures** - Gozola

stated when the Council last reviewed this proposed ordinance, several changes were suggested. He reviewed the latest draft and asked for further changes or approval of the draft. He discussed a policy created which would detail when surveys would be required.

De La Vega stated he is still uncomfortable with language which states "unless exempted by the City". Gozola stated by doing it this way, it still gives the flexibility for the one-in-ten case. De La Vega believed we should define it clearly. He suggested the language be deleted completely in all instances in the proposed ordinance. He stated he would like to end up with an ordinance that can be applied consistently all the time. Tessness didn't believe the Council had the knowledge to list all possible variables. Penberthy suggested changing it to read "unless exempted pursuant to policy". De La Vega stated he liked it

as an alternative to what is now proposed. De La Vega questioned the use of the word "discretionary" in the first sentence of the policy. In response to a question from De La Vega, Gozola explained the exception for a fence permit. De La Vega suggested that the foundation survey criteria be rewritten to state five feet or less rather than within five feet, and ten feet or less rather than within ten feet. Gozola stated this can be brought back to the next meeting. LaBelle opened the hearing for public comments. There were none. This was considered the first reading.

**8. OLD BUSINESS**

None

**9. NEW BUSINESS**

**A. Water Treatment Plant Fence Addition** - Kluver discussed the addition of a fence around the water treatment plant and city shop site. He also analyzed several types of security measures. He noted a conditional use permit would be required to install the proposed fence with three strands of barbed wire. The existing fence would have the barbed wire added. The existing gates would be replaced with cantilevered gates. LaBelle asked if the fence would need to be secured to the ground as recommended. Kluver stated it would add more to the cost. Marceau asked how much was lost during the vandalism. Kluver stated most have been graffiti, throwing equipment into the wetlands. There was a \$5000 loss of equipment. De La Vega asked why the gates would be replaced. Kluver stated the existing gates are in bad condition. The new gates will be easier to open and close. Marceau asked if there are any grants that would pay for this. Kluver stated he didn't know of any grant possibilities, but he could research it more. Marceau was concerned about the sizable amount of money and if homeland security issues would be addressed. De La Vega asked if there were any motion detectors in the back. Kluver stated it would be a fairly expensive solution. Marceau was concerned about constructing a 6' high fence and then be mandated down the road for an 8' fence. He believed lights could do the same thing. Tessness stated we should possibly look at other options such as signage and lighting. Marceau didn't think the cost of the fence is warranted because of losses incurred to date. Kluver stated he has looked at all other alternatives, and he is recommending the fence. Tessness stated he supported the request. Folley was concerned about the need. Marceau did not support the request. De La Vega stated it's not enough to be a security fence. He wasn't comfortable with the gate replacement which is a majority of the cost. LaBelle stated it is important to offset any future vandalism. He stated the facility must be secured. He supported the request. **Tessness moved to approve the proposed fence at a cost of \$15,164 for fencing and new gates and to proceed with the conditional use permit application based on additional research into possible funding. Motion failed for lack of a second.** LaBelle suggested this be put on the next meeting agenda to allow the Council to review what exists.

**B. LMCC Budget Approval** - Folley stated the budget was approved at the last LMCC meeting. He stated the joint powers agreement was changed from seven members to a majority because there are sixteen cities involved. De La Vega was concerned about the lack of effort to be conservative. **Folley moved to adopt Resolution 07-44 approving the LMCC budget. Tessness seconded the motion. Ayes - Tessness, Folley, Marceau, and LaBelle. De La Vega voted against the motion. Motion carried.**

**10. MATTERS FROM THE FLOOR**

None

**11. REPORTS**

**Sandin** - Link reported that the Fall Cleanup has been scheduled for Saturday, September 29, and the newsletter will be mailed on Wednesday, September 12.

**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 Committee has determined a bench design that will be standard throughout the city and will come to the City Council for future consideration. The Committee had a table at Apple Day in Excelsior on Saturday to make the community aware of the proposed trail along Manitou Road. A list of enhancements needed in the parks has been compiled which will be shared with the City Council in the near future. The Excelsior Fire District fire chief has successfully completed his probationary period, and there will be a new contract. The Southshore Center agreement will come before the City Council at a future meeting.

**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 8:45 p.m. De La Vega seconded the motion. Ayes 5. Motion carried.**

Attest:

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Clerk