

OFFICIAL MINUTES  
TONKA BAY CITY COUNCIL  
REGULAR MEETING  
September 13, 2016

1. CALL TO ORDER

The regular semi-monthly meeting of the Tonka Bay City Council was called to order at 7:00 p.m. Mayor De La Vega recessed the meeting to allow the City Attorney to arrive. The meeting reconvened at 7:07 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 and City Attorney Biggerstaff.

3. APPROVAL OF AGENDA

Grothe moved to approve the agenda as submitted. Ansari seconded the motion. Biggerstaff stated a letter of withdrawal for Item 7A is in the packet. He stated as there is no longer an application, there is nothing to consider, and the item can be removed from the agenda. Grothe amended his motion to accept the letter of withdrawal for Item 7A. Ansari seconded the amended motion. Ayes 4. Motion carried.

4. CONSENT AGENDA

Grothe moved to approve the following consent agenda items:

- A. Work Session Meeting Minutes of August 23, 2016
- B. Regular Meeting Minutes of August 23, 2016 – Change “Commissioner” to “Councilmember”.

Clapp seconded the motion. Ayes 4. Motion carried.

5. MATTERS FROM THE FLOOR

1. Dennis Nelson, 135 Mound Avenue commented on the withdrawal of the variance/CUP request at 125 Mound Avenue and the 60-day rule. De La Vega asked for the City Attorney to comment. Biggerstaff stated the fact that there has been a withdrawal letter there is no longer a request. The 60-day rule is no longer applicable. He stated it is not unusual for an applicant to withdraw a request. Nelson requested the City require a waiver from the applicant. De La Vega stated there have been other applications before that have been withdrawn. Nelson stated he would like a copy of his submittal put into the public record. He stated he didn't believe this was fair, and he will now have to wait around for another application to be submitted. De La Vega stated everyone has a right to submit or withdraw an application. He stated

we could check with the League of Minnesota Cities to make sure we haven't missed something.

6. **SPECIAL BUSINESS**

None

7. **PUBLIC HEARINGS**

A. Variance/CUP – Jasper, 125 Mound Avenue

This item was removed from the agenda at the property owners' request.

B. Variance/CUP – Jennings, 35 West Point Avenue

Perdu reviewed a request for variances and CUPs for the tear-down and reconstruction of an existing home and garage. She reviewed aerial photographs showing the layout. She discussed the need for variances from lot area, lot width, and setbacks. She also discussed a CUP for hardcover and floor area ratio.

Perdu outlined on an existing survey the footprint of the existing home and detached garage. She also reviewed a survey showing the proposed footprint and the floor plan. She indicated a basement would not be possible on the lot, and the applicant is requesting additional storage space for this reason.

Perdu discussed unique circumstances of the lot. She noted there are no unique circumstances related to the rear setback, and the need for the variance is due to the 3-car garage.

Perdu discussed the CUP requests. She indicated the proposal would be consistent with the Comprehensive Plan, and there would be no negative impacts on the neighborhood. The City Engineer has recommended a storm water maintenance facility agreement be executed. She recommended approval of all requests with the exception of the rear setback for the garage.

Clapp asked what the height requirement would be for this request. Perdu discussed the height requirement and noted there were no issues with this request.

De La Vega opened the hearing for public comments.

Ann Jennings discussed the neighborhood characteristics, drainage issues, and the need to tear down and rebuild.

Ron Brenner, architect for the applicant discussed the character of the neighborhood and setbacks of the various neighboring properties. He noted most of the garages on the north end are very close to the street. He discussed approved variances/CUP requests in the neighborhood over the past two years.

Pat McGlone, 85 West Point Avenue supported the request.

De La Vega closed the public hearing.

Clapp asked when the house to the north was built. Grothe stated De La Vega was the only one on the Council at the time. Grothe indicated he would not have recommended approval of the request at the time. De La Vega stated that that approval has no bearing on this request tonight.

De La Vega asked if any letters were received from neighbors. Crawford indicated there were not.

Grothe suggested the structure be moved six feet closer to the lake. Ansari believed it would impact the neighbor's sight lines.

Clapp stated he was okay with the West Point Avenue setback but was concerned about the hardcover. He stated he liked the design.

De La Vega discussed the uniqueness of West Point Avenue and the difficulty of dealing with the small lot sizes. He suggested we vary from the staff recommendation to deny the rear yard setback for the garage.

Grothe stated he agreed and noted he liked the design and the layout. He discussed whether the plan could be built without the variance.

Grothe moved to direct staff to prepare Resolution 16-33 approving the request based on the applicant's submittals and findings of fact and based on amended conditions of approval "c" and "e" in the affirmative. He suggested the footprint be moved if possible. Clapp seconded the motion. Ayes 4. Motion carried.

- C. Amend Chapter X, Zoning, Section 1011, General Development and Performance Standards – Temporary Health Care Dwelling Opt-Out

Crawford stated on May 12, 2016 the Governor signed into law a bill creating a process whereby landowners can place temporary mobile residential dwellings on their property to serve as a temporary family health care dwelling. This law requires all cities to allow these temporary dwelling units as a permitted use unless the City enacts an ordinance opting out of the new law. This has been discussed at previous meetings, and the proposed language is listed in the staff report.

Councilmembers discussed the statute and what it would mean to opt-out. Biggerstaff discussed the uniqueness of the statute. He stated the item before the Council would be to accept the statute or opt-out.

De La Vega opened the hearing for public comments. There were none, and the hearing was closed.

Clapp moved to approve Ordinance 2016-03 and adopt Resolution 16-34 approving summary publication of said ordinance. Ansari seconded the motion. Ayes – Ansari, Clapp, De La Vega and Grothe. Motion carried.

**8. OLD BUSINESS**

A. Zoning Ordinance Amendments – Section 1002

Crawford recommended review of definitions on pages 17-22 of Section 1002.

Portable storage containers have been added to the ordinance. Council discussed whether to remove “weather resistant” and agreed it should be removed.

The definition for processing facility was removed as it is the same as recycling facility on the following page. The definition for railroad right-of-way was discussed with no issues. The department listed in residential care facility was renamed and changed. Councilmembers discussed the proposed changes.

**9. NEW BUSINESS**

A. 35 Woodlawn Avenue Abatement Order

Crawford stated over the past several months, staff has responded to complaints regarding junk, debris, and general dilapidation due to inadequate maintenance at 35 Woodlawn Avenue. After several inspections

staff has determined that not only is the yard a nuisance, but the yard and structure taken together constitute a hazardous property pursuant to Minnesota Statutes, Section 463.15, subdivision 3.

Staff has made multiple requests to the property owners to abate the hazardous conditions. Additionally, Hennepin County has been involved given the threat to public safety posed by the condition of the Property. To date the property owners have not complied with the City's requests. Staff requested the City Council adopt the attached resolution and order which would designate the property as hazardous pursuant to state law, and order the property owners to abate the hazardous conditions.

Biggerstaff discussed the purpose of the resolution and consent order. The Council would be able to negotiate a timeline, if needed. He recommended adopting the order in order to start the process. He outlined the next steps. He explained that a consent agreement would be a contract between the property owners and the City.

Grothe asked if the consent agreement would make this less litigious. Biggerstaff stated it would make it less likely there would be a need to go before a judge. The owner would be able to negotiate the items on the consent agreement. Council discussed the terms of the consent agreement and the deadline to abate the conditions on the site.

Grothe moved to adopt Resolution 16-35, to order the abatement of the property at 35 Woodlawn Avenue, and to direct staff to take all necessary steps to carry out this order. Clapp seconded the motion. Ayes – Ansari, Clapp, De La Vega and Grothe. Motion carried.

Grothe moved to approve the draft consent agreement with the changed date and to direct staff to incorporate additional violations into the consent agreement following the inspection on September 14. Ansari seconded the motion. Ayes 4. Motion carried.

**B. Minnesota Department of Health Grant Agreement**

Crawford stated staff received a grant of \$10,000 to identify unidentified wells in the City.

Grothe moved to accept the grant and direct the City Administrator to execute said agreement. Ansari seconded the motion. Ayes 4. Motion

carried.

10. MATTERS FROM THE FLOOR

11. REPORTS

- A. Administrator – no report
- B. Anderson - Finance, Fire Lanes and Public Access, Technology – absent
- C. Ansari – EFD, Sanitation and Recycling, Southshore Community Center – Ansari reported on the EFD 125<sup>th</sup> Anniversary celebration.
- D. Grothe – Building Inspection, Municipal Buildings and Grounds, LMCC – no report
- E. Clapp - Parks and Playgrounds, LMCD, Commercial Marinas, Municipal Docks – Clapp stated he would be attending the LMCD meeting on September 14.
- F. Attorney's Report – Biggerstaff stated he would follow-up with Nextel on the antenna correspondence.
- G. De La Vega - Public Works, SLMPD, Administration – De La Vega stated the anniversary party for the EFD anniversary was well attended.

12. ADJOURNMENT

There being no further business, it was moved by Clapp to adjourn the meeting at 8:35 p.m. Grothe seconded the motion. Ayes 4. Motion carried.

Attest:

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Clerk