

CITY OF TONKA BAY ITEM NO. 4A

MINUTES TONKA BAY CITY COUNCIL REGULAR MEETING September 22, 2009

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 and City Attorney Penberthy.

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

De La Vega moved to approve the consent agenda as presented approving the regular meeting minutes of September 8, 2009 and the accounts payable. Tessness seconded the motion. Ayes 5. Motion carried.

5. MATTERS FROM THE FLOOR

None

6. PUBLIC HEARING

None

7. OLD BUSINESS

None

8. NEW BUSINESS

A. 130 Lakeview Avenue – LaBelle stated that in city staff's mind it was very clear in 2007 how the driveway issue would be resolved. He asked for the Council's input on what their intent was when this public hearing was originally heard relating to the driveway issue. LaBelle began the discussion by stating his recollection and belief was

that the old driveway was going to be removed. He based this on the planner's recommendation and the long tradition the Council has had over the years of cleaning up any encroachments when we get the opportunity. He stated sometimes the encroachment can't be removed entirely, but it can be significantly reduced. He apologized for any misunderstanding or misinterpretation on the part of the applicants. He indicated he would not have supported the variances and a conditional use permit approvals if the driveway removal had not been a condition of approval. De La Vega stated he also assumed the driveway would be removed. From his recollection, the driveway was to be removed because of the Jones' stated concerns about safety. Tessness recalled mentioning during the meeting that the driveway would be removed. Marceau stated the Jones' should have an opportunity to comment on the driveway issue. Folley stated he recalled the hardcover was way too high, and he remembered the Jones' citing the safety concerns of the driveway location. De La Vega stated what it boils down to is whether requiring the driveway removal was included in the adopted resolution, and it was not specified. **Steve Jones, 130 Lakeview Avenue** stated the driveway removal was not spelled out in the resolution, and it was never his intention to remove it. He stated the Council approved his request, and he constructed the required rain gardens. He discussed a list of seventeen residences in Tonka Bay that currently have two driveways. He noted 170 Brentwood Avenue has two driveways, and they were told to remove one and have not done so. He stated the safety issue was with their 4-year-old at the time, and it was never a safety issue for anyone else. He asked the Council to look into a license agreement in order to allow the driveway to remain. LaBelle explained a license agreement would be a mechanism whereby Jones would be able to utilize the driveway as mutually agreed with the City. The Council could set restrictions to what can be parked there and when vehicles could be parked there. LaBelle indicated there would be legal and filing fees associated with such an agreement, and he indicated he would not be in favor of such an agreement. Jones stated it is his understanding that the cost of the agreement would be at City and taxpayers' expense. He stated the driveway removal would devalue his property. He didn't see any sense in removing the driveway and replacing it with sidewalk access to the street. De La Vega stated the Council's intent was to have the driveway removed and he still has an issue allowing the private use of a right-of-way. Marceau stated he knows Jones well enough to trust his recollections. LaBelle stated what needs to be considered is the intent of the Council. We need to do what is in the best interest of the city. De La Vega stated the driveway would be removed at City expense, and it would be seeded. Jones stated he would like the parking issue to be enforced throughout the city. He felt like they were being singled out, and he saw absolutely nothing wrong with having the driveway remain. LaBelle suggested Jones file formal complaints with the city of the other issues. Loftus stated the police issue parking violations, and she suggested Jones call them when someone is parked illegally. Jones stated he didn't think he should have to pay for removing the driveway. LaBelle stated he

isn't being asked to pay anything. Marceau felt a license agreement was the way to go, but it appeared the majority of the Council wasn't going that way. **Tessness moved to approve Option 1 to direct Public Works to remove the disputed portion of the previous driveway and replace the impervious surface with a grass boulevard. Folley seconded the motion.** Folley asked if there is a sense of urgency to have the work completed. Loftus noted Public Works has indicated the Council could dictate when they want the work to be done. De La Vega asked how the budget will pay for this. Loftus indicated the \$430 out-of-pocket expenses would come from Repairs and Maintenance. **Tessness amended his motion to direct staff to determine when the work should be done. Folley seconded the amended motion. Ayes 4-1. Marceau voted against the motion. Motion carried.**

B. Schedule Worksession – Loftus stated she would like to have a separate budget worksession for the CIP. She suggested a worksession be set for October 27 at 6:00 p.m. **De La Vega moved to schedule a CIP worksession for October 27 at 6:00 p.m. Marceau seconded the motion. Ayes 5. Motion carried.**

9. MATTERS FROM THE FLOOR

10. REPORTS

A. Loftus – Loftus stated a County Road 19 trail meeting is proposed for the joint Councils of Shorewood, Tonka Bay and Orono. She asked the Council to check their schedules to see what will work. LaBelle stated at least three Councilmembers should plan to attend. The Council approvals are the first step before the trail plan goes out for funding opportunities. Loftus stated the Board of Appeal training is scheduled for Tuesday, November 17 from 1:00 – 4:00 p.m. She asked the Council to let her know of their availability.

B. Marceau – Finance, Marinas – no report

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

D. Folley - Animal Control, LMCC, Technology, and Southshore Senior/Community Center – Folley noted the new warming house is at the park. Loftus stated there will be more improvements completed in the next six weeks such as painting and landscaping.

E. De La Vega - EFD, Parks, Sanitation, and LMCD – De La Vega stated the EFD is looking for volunteers to help out at the open house on October 8. There is an EFD Board meeting on September 23.

F. Attorney's Report – no report

G. LaBelle - Public Works and SLMPD – no report

11. **ADJOURNMENT**

There being no further business, it was moved by Marceau to adjourn the meeting at 7:55 p.m. De La Vega seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk