

**MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
November 13, 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 City Administrator Loftus, City Planner Gozola, Public Works Superintendent Kluver, and City Attorney Penberthy

3. APPROVAL OF AGENDA

De La Vega moved to approve the agenda as submitted. Tessness seconded the motion. Ayes 5. Motion carried.

4. APPROVAL OF MINUTES – Worksession and Regular Meeting – October 23, 2007

Folley moved to approve the minutes of the worksession and regular meeting of October 23, 2007 as written. Marceau seconded the motion. Ayes 5. Motion carried.

5. CONSENT AGENDA

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. Second Reading – Ordinance Amendment – Section 320, Fire Code – Loftus stated the proposed ordinance was reviewed on October 23. There have been no additional comments from the public since that time. Tessness moved to pass Ordinance 2007-7 and adopt Resolution 07-48 adopting the summary ordinance. Marceau seconded the motion. Ayes – Tessness, Marceau, LaBelle, De La Vega, and Folley. Motion carried.

B. First Reading - Zoning Ordinance Amendments - Sections 1017.05(1), 1018.05(1), 1019.05(1), 1020.05(1), 1021.05(1), and 1022.05(1) - Loftus noted this is a proposed amendment for off-site recreational facilities and introduced the City Planner. Gozola stated this amendment addresses an oversight in the city's zoning ordinance as it relates to off-site recreational facilities. He stated the problem with the current ordinance is that the parcels must be tied together with a common PID number. Staff is recommending that the ordinance be amended so that a lot combination is not necessary.

LaBelle clarified the ordinance would allow off-site recreational facilities as a conditional use.

C. First Reading - Shoreland Ordinance Amendment - Sections 1070.05 and 1071.01, Shoreland Ordinance – Gozola stated this particular ordinance has been discussed before at the worksession level. The proposed amendment would include every property in Tonka Bay. As the ordinance is currently written, there are six pieces of property in the city that are not included in the designation. He explained it makes sense to include every property, because impervious surface is addressed in the shoreland ordinance. He stated other changes would include decks and pavers as impervious surface and the change from tennis court to sport court. LaBelle noted the DNR has approved the proposed ordinance.

D. First Reading - Ordinance Amendment - Section 802, Xcel Energy - Electric Franchise – Loftus stated this is the first reading of the electric franchise with Xcel Energy. The agreement is for a 20-year period. Michelle Swanson from Xcel Energy was present to answer any questions. De La Vega asked if the 20-year time frame is typical. Swanson stated it is a standard length of time for any franchise. She noted the agreement allows for opening up the agreement at any time for any changes.

LaBelle opened the hearings for comments on any of the ordinance amendments. There were none, and LaBelle closed the hearings. The second readings will be held at the meeting on November 29, 2007

8. OLD BUSINESS

A. Wetland Mitigation – Loftus stated the City Council has discussed looking at an alternative site for the Woodpecker Ridge Road mitigation requirement. An alternative site has been reviewed at Old Orchard Park. The area has been staked at this site and at Wekota Park, the site of the original mitigation area. The Woodpecker Ridge Road project is underway, and the contractor is waiting for our decision on the mitigation site. We are asking for a motion from the Council designating the preferred mitigation site. LaBelle asked the councilmembers to comment on the alternative site. De La Vega stated the Wekota site would be less obtrusive to the general conditions of our parks as they exist now. He had concerns about the equipment required for the mitigation. Kluver noted Wekota Park is more stable than the Old Orchard site. De La Vega asked if the trail location at Old Orchard would need to be relocated and what costs would be involved. Kluver stated a portion of the trail would have to be relocated. LaBelle noted the costs are not currently available. Marceau stated he would be afraid to go to Wekota without investigating other areas. The impact in the future might be less at Old Orchard Park, and it might also be cheaper. Folley agreed with Marceau's comments, and he stated he would like more information on the Old Orchard site. Tessness stated he would like the mitigation site to remain at Wekota Park. He stated the characteristics of the Old Orchard site would be drastically changed. LaBelle agreed the area would be

dramatically altered. He believed the mitigation wouldn't even be noticeable next year if done at the Wekota site. He asked what Council action was needed. Loftus stated the contractor is waiting for the Council's decision so they can begin work. She stated action could be for Council authorization to move forward to cost out and design the mitigation area and apply for a permit at the MCWD. LaBelle asked at what point the contractor would not move forward this year. Loftus believed the work could not proceed after the end of the year for this construction season. LaBelle asked if the contractor would work into December. Loftus stated that could be negotiated as well as 2008 construction costs. Marceau stated he believed it would be a better use of land at Old Orchard Park than it would be at Wekota Park. He believed the mitigation would result in turning Old Orchard Park back to its original condition. LaBelle stated there is the possibility the mitigation at Old Orchard Park would be less expensive than at Wekota Park. He was concerned about the lack of visibility for those who rent docks with the increase in vegetation. **Marceau moved to approve the expenditure of \$2600 to research the use of the Old Orchard site for mitigation. Folley seconded the motion.** Marceau stated it is important to look at all of our options. **Ayes 3-2. De La Vega and Tessness voted against the motion. Motion carried.** LaBelle suggested the Council should decide where the funding would come from for the research. **Marceau moved to fund the expenditure in the same formula as that used for the Woodpecker Ridge Road expenses. Folley seconded the motion. Ayes 3-2. De La Vega and Tessness voted against the motion. Motion carried.**

9. NEW BUSINESS

A. Shorewood Yacht Club – Loftus stated the Shorewood Yacht Club is currently in the process of seeking approval from the City of Shorewood to allow motor boats in 58 of their 117 slips. Concerns have been raised by Tonka Bay residents who live near the yacht club. Council is asked to consider stating their concerns or preferences with this issue. Marceau stated it is Shorewood property, and we may be overstepping our jurisdiction. He didn't think the City Council has the power to tell Shorewood what they should do with commercial property in their city. De La Vega stated Shorewood has the right to decide what is best for their community. We could let them know we have residents who are concerned. Penberthy noted the LMCD has heard and approved this request. Tessness stated he would be in favor of sending a memo noting the residents have concerns. LaBelle stated he wouldn't even want to go that far. We have no jurisdiction as this is a Shorewood issue. If residents are concerned, they need to contact Shorewood directly.

10. MATTERS FROM THE FLOOR

None

11. REPORTS

Loftus – Loftus stated the next City Council meeting will be held on Thursday, November 29 at 7:00 p.m. following the Truth in Taxation Hearing at 6:00 p.m.

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 – De La Vega stated the process has begun to research a permanent solution for the Southshore Center. Two groups have been formed to discuss programs and organization/management. The first meeting with the City Administrators will be held on Friday, November 16 to discuss options.

Attorney's Report - no report

LaBelle - Public Works and SLMPD – LaBelle stated all the cities have approved the proposal for CSO services through SLMPD. Loftus noted it will begin in 2008.

12. CLOSED SESSION

LaBelle stated the meeting would now be closed, because the matters to be discussed constitute an attorney-client privilege under Minnesota Statutes. No further City Council business will be conducted after the closed meeting other than to adjourn. The following persons will be in attendance at the closed meeting:

Councilmember Anthony Marceau
Clayton Tessness
Gerry De La Vega
Ken Folley
Mayor Bill LaBelle
City Attorney Jim Penberthy
City Administrator Jessica Loftus

The subject matter of the meeting will be pending litigation involving Carol Kurilla vs. The City of Tonka Bay. LaBelle dismissed audience members.

13. ADJOURNMENT

There being no further business, it was moved by Marceau to adjourn the meeting at 8:00 p.m. Tessness seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk