

**MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
December 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: 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. APPROVAL OF MINUTES – Truth in Taxation and Regular Meeting – November 29, 2007

Marceau moved to approve the minutes of the Truth in Taxation hearing and regular meeting of November 29, 2007 as amended: Page 4, Item 9A, change the last sentence to read: “We can make a strong request for payment and issue a refund if a decision is made and one is needed”. De La Vega seconded the motion. Ayes 5. Motion carried.

5. CONSENT AGENDA – Accounts Payable

Tessness 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. Liquor License Fees – Loftus stated staff is proposing the Council consider increasing liquor license fees. A public hearing is required. Additional comparison information is provided in the yellow packets. She explained the process that is undertaken for liquor license approval. She explained for some of the fees, there are statutory limits. A comparison of Tonka Bay with Shorewood and Excelsior was provided for the Council’s review. She asked the Council to take public comment. Written comments were provided by Country Club Lanes in opposition of the increase. She stated tonight would be the first reading with the second reading at the first meeting in January. LaBelle opened the hearing for public comments. There were none, and LaBelle closed the public hearing. Marceau stated he was concerned about the increase for Country Club Lanes until he saw the comparison with other cities and what the

workload involves. He is comfortable with the increases as proposed. De La Vega asked if any other cities had taken action on the rate increases. Loftus stated the rates provided are either 2007 or 2008 rates. The second reading will be held on January 8. Loftus stated the specific rates in the current ordinance are proposed to be deleted and a reference remains to the fee schedule.

8. OLD BUSINESS

A. Bill Dispute – 25 Cedar Street – Chris Moses, 25 Cedar Street was present to address the Council relating to the fees he has been charged for his variance and conditional use permit. He stated he was surprised to be billed after he had already paid a very sizable bill. He discussed his concerns about the process he had to go through to get his building permit approved. He questioned whether the timeline he had to endure was reasonable. He asked that the remaining balance be forgiven. LaBelle stated he believed the application was handled the best it could have been and with due diligence. He stood behind the process. Staff and the planning consultant have both reported to the Council that the charges incurred were reasonable and incurred on behalf of the applicant. We are unable to make these fees go away. It is tax dollars, and the burden cannot be spread among Tonka Bay residents. Moses was still concerned about the length of time he had to wait for his building permit. He reviewed the timeline. He noted he was told he needed a variance one month after he submitted his building permit application and another month before he was told he needed a conditional use permit. There was no communication in writing until the variance application was submitted. This process should have been followed when the building permit application was submitted, and state statutes should have been followed. LaBelle stated staff and the consultant have reported due diligence did occur. Moses noted he incurred interest expenses in excess of the outstanding bill. De La Vega stated he is at a disadvantage because he is not aware of the statute Mr. Moses is referring to. Loftus stated the building permit application went to Metro West first before she saw the application. That process has now changed, and the application does not go to Metro West first. After she first reviewed it, she spent a good week with the applicant discussing whether a variance was needed. She believed the planning consultant, city attorney and herself feel confident that they met the 60-day rule. LaBelle stated he would like to delay discussion to the January 8th meeting. This will allow staff and legal counsel to address Mr. Moses' concerns specifically. He asked Moses to pay the bill, and the city will issue a refund if a decision is made to do so. Moses asked that he be reimbursed for the variance, conditional use permit, and building permit fees. He did not want to write any more checks, because the process was not right. LaBelle asked if the item could be discussed at the January 22 meeting. Moses stated he has been wrongfully, possibly illegally, charged. He wanted the remaining bill to be waived.

9. **NEW BUSINESS**

A. **2008 Liquor License Requests** – Loftus stated the liquor and cigarette licenses have been submitted for 2008, and the Council is asked for their approval. **Marceau moved to approve the 2008 liquor and cigarette license requests. De La Vega seconded the motion. Ayes 5. Motion carried.**

B. **2008 Budget and Tax Levy** – Loftus stated there have been no changes to the budget since the Truth in Taxation hearing. The majority of the increase is due to the police and fire budgets, pension increases, election costs, an increased contribution to Southshore Senior Center and an increased levy from the LMCD. **Folley moved to adopt Resolution 07-53 approving the 2008 budget and tax levy. De La Vega seconded the motion. Ayes – De La Vega, LaBelle, Folley, Tessness and Marceau. Motion carried.**

C. **2008 Fee Schedule** – Loftus stated the City Council reviewed the fee schedule at a worksession. She asked that the fee schedule be approved prior to the first of the year in the future. She reviewed proposed increases and new fees. She asked for a motion to approve the ordinance to incorporate the fee schedule and a resolution approving summary publication. De La Vega asked if by approving the fee schedule the liquor license fees are approved by default. Loftus stated what we are asking for is the ordinance be changed to remove the rates and refer back to the fee schedule. The liquor fees would not be in effect until next year's license renewals. Penberthy stated if action is taken tonight, the second reading would be waived. If there isn't a compelling reason, the second reading should be held. Loftus noted this is the first year the fee schedule is approved by ordinance. De La Vega stated he would like to have a second reading.

D. **Cancel December 25 City Council Meeting** - **Marceau moved to cancel the December 25 meeting. Folley seconded the motion. Ayes 5. Motion carried.**

10. **MATTERS FROM THE FLOOR**

11. **REPORTS**

A. **Loftus** – Loftus stated the third round of negotiations with the Public Works union will be held on December 27th. Hopefully, it will be settled and something will be brought to the January 8th meeting.

B. **Marceau – Finance, Marinas** – no report. Marceau left the meeting at 7:55 p.m.

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

D. **Folley - Animal Control, LMCC, Technology** – Folley reported there is a problem with the sound system, and the sound board must be replaced. He stated there are funds available to purchase another. Loftus stated there is still \$800 in the Council Recorder's salary, and funds are also available in office supplies. The LMCC has researched options to correct the sound system problems, and replacement of the sound

board is the best option. LaBelle asked if there is reasonable assurance this will correct the problems. Loftus stated she relies on the LMCC to advise the city on what the best options are. Tessness suggested purchasing the replacement sound board. Loftus stated there is an option to rent the replacement equipment, but it is cheaper to buy one. **Folley moved to authorize the purchase of a new sound board. Tessness seconded the motion. Ayes 4. Motion carried.**

E. De La Vega - EFD, Parks, Sanitation, and Southshore Senior/Community Center – De La Vega stated the EFD Board has discussed the remaining \$90,000 in Orono funds. The Board decided the Reserve Fund would be funded with \$60,000. The remaining \$30,000 will be put in a designated donations fund under firefighter equipment.

F. Attorney's Report – Penberthy discussed a handout explaining penalties on late fees which is consistent with what the city currently charges.

G. LaBelle - Public Works and SLMPD – no report

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 Clayton Tessness
Councilmember Gerry De La Vega
Councilmember 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 and Wentzell vs The City of Tonka Bay. LaBelle dismissed audience members.

13. ADJOURNMENT

There being no further business, it was moved by Folley to adjourn the meeting at 8:05 p.m. De La Vega seconded the motion. Ayes 4. Motion carried.

Attest:

Clerk