Tioga City Commission

April 21, 2014

Minutes

Commissioners Present: Germundson, McClelland, Davidson, and Spivey

Commissioners Absent: Goldade

Visitors Present: Rich Zakrajsek, Harlan Engberg, Melissa Koch, Travis Wittman, Desiree Hanson, John Grubb, J. Odegaard, Kirk Odegaard, Jeff Moberg, Laryy Myers (Bakken Pipe), Dee Doman (NoMarco), Ron Smith (Dakota Street Estates), Colin Dehli, David Rust, Kevin Killough (Tioga Tribune), Andrea Pfenning (ND Dept. of Commerce), and David Coble (CVL Consultants)

The regular meeting of the Tioga City Commission was called to order at 7:00 pm by President Germundson at Tioga City Hall.

McClelland made a motion and Davidson seconded to dispense the readings of the April 7th, 2014 minutes. All voted aye, motion carried.

Commissioners Reports:

Spivey mentioned they have a new fleet of vehicles that were purchased from the oil impact grant for police department.

Public Input: none

Old Business:

Harlan Engberg discussed several upcoming city projects that he would like the city commission to consider which includes some water and sewer line updates and main street. Engberg also presented part D of the Oil Impact Grant – Infrastructure and would like to include the itemized list to Julie Ramos Lagos to submit with the Oil Impact Grant application. McClelland made a motion to approve submission of the Oil Impact Grant application for Infrastructure improvements and to include the itemized list of part D to the application, Spivey seconded that motion. All voted aye, motion carried.

McClelland made a motion to approve the resolution and submission of the Clean Water State Revolving Fund loan for $5M. Spivey made a second motion. All voted aye, motion carried. McClelland made a motion to approve using Vogelpoht Law Office as the Bond Council for the CW-SRF loan application. Davidson made a second. All voted aye, motion carried.

Spivey made a motion to approve conditional use application for home occupation for two years in order that Connie Seibel can continue her floral business from her residence. McClelland made a second motion. All voted aye, motion carried.

ARTICLE 7 - Conditional Use Permits

5.0701 Conditional Use Permits

A conditional use permit may be granted following compliance with the procedure set forth in this section if the conditional use is one set forth in the District Regulations, provided that no application for a conditional use shall be granted unless all of the following conditions are found to be present:

1. The conditional use will not be detrimental to or endanger the public health, safety or general welfare;
2. The existing permitted uses in the neighborhood will not in any manner be substantially impaired or diminished by the establishment of the conditional use;
3. The conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district;
4. Adequate utilities, access roads, drainage and other necessary site improvements have been or are being provided;
5. Adequate measures have or will be taken to provide access and exit so designed as to minimize traffic congestion in the public streets; and
6. The conditional use shall conform to all special provisions of the district in which it is located.

APPLICATION PROCESS: Application for Conditional Use Permit shall be submitted by the property owner to the Planning Commission Secretary. The application shall include:

1. The name and address of the applicant.
2. The date of application.
3. A description of the site and its relationship to the surrounding area.
4. A preliminary map showing boundary lines and location of structures to be developed on the site.
5. Location of existing structures on adjacent property.
6. Parking plan showing off-street parking areas and/or loading areas.
7. Names and addresses of adjacent property owners.
8. Any reasonable information the Planning Commission deems necessary.

The Planning Commission Secretary, upon receipt of an application for a conditional use permit shall present the same to the Planning Commission at its next regular or special meeting, at which time a date within the next forty-five (45) days shall be set for the hearing of the proposed conditional use.

The Secretary shall notify the applicant of the date of the hearing and of the applicant’s obligation to give public notice of the hearing.

The Planning Commission Secretary, upon receipt of an application for a conditional use shall fix a reasonable time for a public hearing. Notice of the time, place and subject of the hearing shall be published by the Planning Commission Secretary once in the official newspaper at least ten (10) days prior to the date fixed for the public hearing.

Further, the applicant shall notify by certified mail, return receipt, all persons who are owners of property within 200 feet of the area proposed for the variance. At the time of the hearing, the applicant must provide to the Planning Commission Secretary the return receipts from the notice(s) sent via mail. In the event that the applicant does not have the receipts, then the application may not be acted upon until proper proof of mailing is provided to the Secretary.

Proof of publication of the notice shall be filed with the Secretary, along with proof of mailing prior to the hearing, and shall be maintained as a permanent record of the Planning Commission.

Following the hearing, the Planning Commission shall consider the application and evidence presented and shall render its decision within fifteen (15) days. The Commission shall notify the applicant of its decision and its reasons therefore either by mail or by delivering the decision in writing to the applicant in person.

REVIEW BY CITY COMMISSION: After receiving the decision of the Planning Commission, the City Commission shall hold a public hearing on the request for a conditional use. Notice of the time, place and subject of the hearing shall be published by the City Auditor once in the official newspaper for two successive weeks at least ten (10) days prior to the date fixed for the public hearing.

Further, the applicant shall notify by certified mail, return receipt, all persons who are owners of property within 200 feet of the area proposed for the variance. Prior to the hearing being held, the applicant must provide to the City Auditor the return receipts from the notice(s) sent via mail.

Proof of publication of the notice shall be filed with the City Auditor, along with proof of mailing, if required, prior to the hearing, and shall be maintained as a permanent record of the City Commission. Applicant shall pay for all costs of any notice that is published, and be responsible for all costs of mailing all notices required under this Section.

In the event that the applicant does not have the receipts, then the application may not be acted upon until proper proof of mailing is provided to the City Auditor.

The City Commission shall notify the person requesting the variance of its decision either in person by delivering to them a copy of the minutes or by mail.

ARTICLE 8 - Amendments

5.0801 Amending

The City Commission may from time to time amend, supplement or change the district boundaries or regulations contained in this zoning ordinance. A proposal for an amendment or a change in zoning may be initiated by the City Commission, by the Planning Commission, or upon application of the owner of the property affected. All such proposed changes submitted to the Planning Commission for recommendation and report. The Planning Commission shall prepare final written findings which shall be submitted to the City Commission within sixty (60) days after the time of referral of the proposed amendment to the Planning Commission.

5.0802 Applications

The party desiring any change in zoning district boundaries or regulations contained in this zoning ordinance as to any lot, tract or area of land, shall file with the City Auditor an application upon forms provided, and such application shall be accompanied by such data and information as may be prescribed by the Planning Commission. At the time of filing said application with the City Auditor, the applicant shall provide the City with the names and addresses of all owners of any land located within two hundred (200) feet of the outer limits of said area to which the applicant desires change of zoning.

5.0803 Public Hearing and Notice

Before the Planning Commission shall, by proper action, formulate its recommendation to the City Commission on any such proposed or requested change of zoning district boundary or regulation, whether initiated by the City Commission, the Planning Commission or by the property owner, the Planning Commission shall hold a public hearing on such proposal. The Secretary of the Planning Commission shall cause a notice of public hearing to be published once a week for two successive weeks prior to the time set for the said hearing in the official City newspaper. Such notice shall contain:

1. The time and place of the hearing.
2. A description of any property involved in any zoning change, by street address if streets have been platted or designated in the area affected.

1. A description of the nature, scope, and purpose of the proposed regulation, restriction or boundary.
2. A statement of the times at which it will be available to the public for inspection and copying at the office of the City Auditor.

In addition to such publication notice, written notice of such proposed change shall be mailed by certified mail, return receipt, to all the owners of property within the area proposed to be changed and to owners of any land located within two hundred (200) feet of the outer limits of the area in which the zoning is to be changed.

REVIEW BY CITY COMMISSION: After receiving the decision of the Planning Commission, the City Commission shall hold a public hearing on the request for a zoning amendment. Notice of the time, place and subject of the hearing shall be published by the City Auditor once in the official newspaper for two successive weeks at least ten (10) days prior to the date fixed for the public hearing.

Further, the applicant shall notify by certified mail, return receipt, all persons who are owners of property within 200 feet of the area proposed for the amendment. Prior to the hearing being held, the applicant must provide to the City Auditor the return receipts from the notice(s) sent via mail.

Proof of publication of the notice shall be filed with the City Auditor, along with proof of mailing, if required, prior to the hearing, and shall be maintained as a permanent record of the City Commission. Applicant shall pay for all costs of any notice that is published, and be responsible for all costs of mailing all notices required under this Section.

In the event that the applicant does not have the receipts, then the application may not be acted upon until proper proof of mailing is provided to the City Auditor.

5.0804 Protest

If a protest against a change, supplement, modification, amendment or repeal is signed by the owners of twenty percent (20%) or more:

1. Of the area of lots included in such proposed change; or
2. Of the area adjacent, extending one hundred fifty (150) feet (45.72 meters) from the area to be changed, excluding the width of streets;

The amendment shall not become effective except by the favorable vote of three-fourths of all members of the City Commission, provided that protests in writing must be filed with the City Auditor prior to the time set for the hearing. If no protest is filed, a majority decision to the City Commission shall be sufficient.

The City Commission shall notify the person requesting the variance of its decision either in person by delivering to them a copy of the minutes or by mail.

Ron from EMS Properties, LLC submitted a plat for review and possible feedback from the city commission before submitting a plat application. Spivey mentioned he would like to see larger streets for emergency vehicles and snow removal purposes. The commission discussed the required setbacks of 20 ft in front and 20 ft on side and indicated they would like to see it built more family friendly with more park area and possible backyards.

The commissioners reviewed a setback variance from Chris Norgaard for a possible car wash location. They decided to table this until the next meeting as they had additional questions for Norgaard. The commission also discussed the letter regarding the concerns addressed from Chris Norgaard for the Lagoon project and its possible effect on grant funding for the Tioga Municipal Airport.

The city commission agreed to have the landfill hours updated to include not only business hours from 8-5pm Monday to Friday but to also be open during the summer from Tuesdays 5-8pm and Saturdays from 9-12. The city will also be looking into a part-time employee to manage the landfill location. Julie Ramos Lagos presented information from AE2S to the city commission indicating their current updates on their P&Z assessments.

New Business:

Andrea Pfenning from the ND Department of Commerce made a presentation on the benefits and uses of a possible Rennaisance Zone for the City of Tioga. She indicated it could be a tool for economic development, tax incentives, and currently 55 cities in ND have a renaissance zone. It can include commercial and residential areas, include up to 23 blocks that are contiguous and touching.

Dave Coble from CVL Consultants presented a proposal for a Drainage Master Study that could be done for the City of Tioga, starting with a fee for phase 1 for $98,900.00. The commission indicated they will review the study further and would like to visit with Williams Rural Water on what services they already provide to the city before making a decision.

Julie N. Ramos Lagos indicated that the City of Tioga would like to open another checking account for Municipay Credit, Debit, and ECheck purposes only. It will mainly include revenue from debit and credit card payments from residents and occasional expenses when a return or void may be required. McClelland made a motion to approve opening a new account for Municipay purposes, Spivey made a second. All voted aye, motion carried.

McClelland made a motion to appoint Melissa Koch, Patti Beck, Jamie Eraas, Judy Odegaard, and Lori Richards to the Visitors’ Fund Board (Tourism). Davidson made a second motion. All voted aye, motion carried.

McClelland made a motion to approve the current pledge of securities, Davidson made a second motion. All voted aye, motion carried.

Rich Zakrajsek presented the following permits: Kevin Czarneky – Class A General Contractors License. McClelland made the motion to approve license, Spivey seconded the motion. All voted aye, motion carried. McClelland made a motion to approve the Minot Plumbing and Heating License. Davidson made a second motion. All voted aye, motion carried. McClelland made a motion to approve Just Right Heating mechanical license submission, Davidson made a second motion. All voted aye, motion carried. McClelland made a motion to approve Mike Matthew’s fence and setbacks. Davidson made a second motion. All voted aye, motion carried. Zakrajsek also indicated that the Sportsman café had made the following updates and would like to be considered for a lower level apartment for owner’s residence. They intent to close off entrance going to the lower floor, place two bathrooms upstairs for handicapped requirements, stairs behind building leading to lower level apartment, egress window on 2nd level on back near alley, and adequate parking for resident. The commission indicated they would like the main entrance to the building to also be handicapped assessable and at least two parking spots for resident.

McClelland made a motion to approve April bills. Davidson made a second motion. All voted aye, motion carried.

McClelland made a motion to approve the 1st reading of the Fireworks Resolution 2014-1. Davidson made a second motion. All voted aye, motion carried.

Resolution No.2014- 1

THE FOLLOWING IS THE PROPOSED RESOLUTION TO AMEND ARTICLE 5 SECTION 4.0505 OF THE CITY OF TIOGA ORDINANCES.

ARTICLE 5 SECTION 4.0505 AS AMEND SHALL READ.

No person, firm, or corporation shall offer fireworks for sale in the City of Tioga, Williams County, North Dakota, to individuals at retail before the twenty-seventh (27th) day of June and after the fifth (5th) day of July in any calendar year and December twenty-sixth (26) through January first (1). No person, firm, or corporation shall offer fireworks for sale unless such person, firm, or corporation has operated a retail business wherein merchandise assessed by the City of Tioga taxing authorities on April first (1st) in the year immediately preceding the fireworks sale.

No person shall sell any of the permissible fireworks enumerated in Section 23-15-01 of the N.D.C.C to any person under the age of twelve (12) years.

Ben Johnson indicated that the City of Tioga needs to transfer Annabelle Phase II private drives behind Tioga Townhomes back to Annabelle Homes, LLC. McClelland made a motion to approve transfer of title for private drives to Annabelle drafted, Davidson made a second motion. All voted aye, motion carried. Johnson also indicated he is working on a sign ordinance and updating the alcohol requirement ordinance. Johnson also recommended that the police department require a bond for traffic violations for traffic citations.

The commissioners requested that the street department remove signs that indicate only local deliveries only to stop trucks from going over railroad tracks. Johnson indicated that there is an ordinance for $5,000-$10,000 penalty offense on state/county roads requiring truck overweight statues. It was also discussed that there is a need for child crossing signs near the new Bright Beginnings daycare. The commission discussed how there also needs to be signs for no overnight parking. The commission also discussed the needs to require dumpsters and clean-up for new developments in the Annabelle Homes Subdivision area.

Being no further business the meeting adjourned at 9:18 pm.

Nathan Germundson Julie N. Ramos Lagos,

President, Tioga City Commission City Auditor