Tioga City Commission

April 7, 2014

Unofficial Minutes

Commissioners Present: Germundson, McClelland, Davidson, Spivey, and Goldade

Commissioners Absent:

Visitors Present: Tanya Weflen, Rich Zakrajsek, Harlan Engberg, Melissa Koch, Travis Wittman, Desiree Hanson, Amanda Mosser, Dan Henderson (Microtel Inn & Suites), Jason Gullicks (Apex Engineering), Peter Moch (Apex Engineering), Paul Burns (North Dakota LNG), Dale Mundy (ACM project manager), Kevin Killough (Tioga Tribune), Jay Skarphol, Ronnie Lund, Marcy Spooner, Melissa Johnson, and Renae Booth.

The regular meeting of the Tioga City Commission was called to order at 7:01 pm by President Germundson at Tioga City Hall.

McClelland made a motion and Goldade seconded to dispense the readings of the March 17th, 2014 minutes. Germundson mentioned updating the minutes that Tanya Weflen is approved for a 12 week maternity leave and not a 12 month leave. With that update to the minutes, all voted aye. Motion carried.

Commissioners Reports:

Spivey mentioned the K9 training taken in California for the police department’s new K9, Bave went very well.

Public Input:

Bob Skarphol presented a table of taxable sales and purchases from the 50 largest ND cities to the city commission showing the City of Tioga as the highest in ND in the third quarter 2013 in taxable purchases and encouraged the city towards working on additional development within the city including commercial and consideration of meeting family sustainability needs for the City of Tioga. He encouraged the City of Tioga to question why the ND sales tax revenue is not always being credited to the area code that it was originally collected from. He indicated that the city should continue with their plans to update a new city hall in the downtown region of Tioga.

Ronnie Lund mentioned his concern with the garbage and waste coming from the new developments on the NE side of town and would like to encourage enforcement of any city garbage ordinances.

Members of the park board were present to ask the commission for consideration and approval of their application for funding from the Tioga Fund for $300,000 towards the outdoor pool project. Spivey made a motion to approve the Tioga Fund application, McClelland made a second motion. All voted aye, motion carried. The Tioga Park Board also asked the commissioners and the City of Tioga to fund an additional $200,000 towards the pool project. Spivey made a motion to approve funding from City of Tioga general fund, McClelland seconded that motion. All voted aye, motion carried. Estimated project completion is for June 1, 2015.

Old Business:

Paul Burns from North Dakota LNG was present to represent ND LNG and Kathy Neset for the plat outlot, zoning application, and annexation application for a section in the SE half of the Southwest corner of Section 23, Township 157 North, Range 96 West of the 5th Principal Meridian, Williams County, North Dakota. Spivey made the motion to approve purchase of the sublot/outlot of Kathy Neset’s land to North Dakota LNG (parcel #1 on plat) sublot plat, and to approve North Dakota LNG’s zone change application for Parcel 1 on sublot plat from agriculture to I-2 Industrial. McClelland made a second motion. All voted aye, motion carried. Spivey made a motion to approve Kathy Neset’s zone change application for Parcel 2 & 3 on sublot plat from agriculture to I-2 (Industrial), McClelland made a second motion. All voted aye, motion carried. Spivey made a motion to approve City of Tioga annexation of parcel 1 on sublot plat from North Dakota LNG plant and parcel 2 & 3 on the sublot plat from Kathy Neset, McClelland made a second motion. All voted aye, motion carried.

McClelland made a motion to approve Mark Black’s conditional use application for use of trailers parked on construction site up to 1 year time with written notice of landowner’s approval of trailers. Davidson made a second motion. All voted aye, motion carried.

ARTICLE 6 - Variances

5.0601 Variances

1. The City Commission may authorize a variance from the terms of this ordinance. The Commission must find that the granting of such a variance will not merely serve as a convenience to the applicant, but will alleviate some demonstrable or unusual hardship or difficulty. All of the following conditions must exist:
2. The property has exceptional value, unique or special characteristics different from other property, particularly adjacent property.
3. Enforcement of the ordinance, with regard to properties having said characteristics, results in unnecessary and undue hardship.
4. Granting of the variance would have no adverse effect on the public interest, safety, health and welfare.
5. Granting of a variance would have no adverse effect on neighboring property.

Under no circumstances shall the City Commission grant a variance allowing a use within a district not permissible under the terms of this ordinance, nor shall the Commission use the variance for a change affecting a large number of properties.

1. Applications for variances shall be submitted to the Planning Commission Secretary by the property owner. The application shall include:
   1. name and address of applicant

* 1. date of application

* 1. the special conditions or circumstances which are peculiar to the applicant’s land or structure

* 1. payment of a fee, the amount of which is to be determined from time to time by resolution of the Tioga City Commission

The Planning Commission Secretary, upon receipt of an application for variance 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, if required, prior to the hearing, and shall be maintained as a permanent record of the Planning Commission.

After the public hearing, the Planning Commission shall make its recommendation to the City Commission although its decision may be deferred for up to thirty (30) days for gathering of evidence.

1. After receiving the recommendation of the Planning Commission, or if the Planning Commission has not acted within thirty (30) days after the public hearing, the City Commission shall hold a public hearing on the request for a variance. 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 Secretary, along with proof of mailing, if required, prior to the hearing, and shall be maintained as a permanent record of the Planning 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 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.

City engineer, Harlan Engberg discussed various upcoming project proposals which were estimated at $15 million. Harlan indicated that there will be additional discussion on the oil impact grant application for infrastructure at the next commission meeting.

Discussion was held on the updated drawings of the new city shop which included updated of >$25,000 to existing architectural drawing. Spivey mentioned that he would like to see the city move forward with the current city hall project and agrees that the city hall building belongs in downtown Tioga. Spivey also mentioned he will most likely be resigning as police commissioner this summer in order to pursue a position with the Tioga police department.

New Business:

The city commission approved use of 68th street from 105th Ave/County Road 21 to ND Hwy 40 for a traffic control plan and possible detour routes during a three-lane concrete roadway construction on Hwy 40 from the Jct. US Hwy 2 to south of the railroad overpass presented by Apex Engineering Group.

Dan Henderson provided drawings of upcoming 80 room Microtel Inn & Suites hotel. Dan indicated the hotel will have a rock front, lobby, breakfast room, and is estimated to cost $119 to $149/night. Construction is estimated to start in May. Goldade made a motion to approve sale of the land (Annabelle Homes Subdivision Block #5 Lot #2) to Microtel Inn & Suites. McClelland made a second motion. All voted aye, motion carried.

The city commission approved schedule deadline requirements for city commission applications and agenda requests presented by Julie Ramos Lagos. City commission schedule will be posted on city website. Germundson invited commissioners to participate in City Government week activities which includes visiting the Tioga schools on Thursday, April 9th and “Open House” at City Hall on Friday, April 11th. Julie Ramos Lagos also mentioned that the city will be developing City of Tioga welcome packets to send out to new residents and utility users welcoming them to Tioga and providing useful information.

The city commission approved advertising for part-time summer interns at $15/hr to assist with landfill coordination and office duties/file maintenance. Landfill rates will be raised from $5 to $6 and etc. to cover costs from hiring interns.

Germundson mentioned that the Theatre Board needed a commissioner appointed to participate as a non-voting member of the board. Davidson was appointed as the Theatre Board commissioner representative. Davidson made the motion to purchase the popcorn machine for the farm festival building from the Tioga theatre. Goldade made a second motion. All voted aye, motion carried.

Melissa Koch gave EDC updates which included the Renaissance Zone proposal and request from the city to provide a resolution. There will be a presentation on the Renaissance Zone in the next commissioner meeting. Melissa also requested approval from the commission to send out a community survey. She also mentioned that they will be working on the community guide shortly and there will be an open house celebration for the New Beginnings Daycare on April 26th.

Goldade made a motion to approve update of the Coborns/Cashwise Liquor License to reflect the updated name of JK Foods. McClelland made a second motion. All voted aye, motion carried.

Goldade made a motion to approve February Balance Sheet. McClelland made a second motion. All voted aye, motion carried.

Rich Zakrajsek’s presented Cashwise drawings for signage. The city commission approved Cashwise’s proposal of a 40 ft tall sign near signal road. Goldade made a motion to allow LNG and Kathy Neset to move forward with the footings with the understanding that they are taking full risk and with the addition of Harlan’s recommendations. McClelland made a second motion. All voted aye, motion carried. Goldade made a motion to approve addition of fence/skid type shed for Scott McIntre on 5th street/Torning. McClelland made a second motion. All voted aye, motion carried.

Spivey made the motion to approve the water department to purchase a water pump up to $12,000 cost. McClelland seconded that motion. All voted aye, motion carried.

Being no further business the meeting adjourned at 9:47 pm.

Nathan Germundson Julie N. Ramos Lagos,

President, Tioga City Commission City Auditor