

CITY OF TONKA BAY ITEM NO. 4A

MINUTES TONKA BAY CITY COUNCIL REGULAR MEETING May 14, 2013

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 De La Vega, Councilmembers Anderson, Ansari, Clapp and Grothe. Also present were City Administrator Kohlmann, City Attorney Penberthy, and Public Works Superintendent Kliver.

3. APPROVAL OF AGENDA

Anderson moved to approve the agenda as submitted. Ansari seconded the motion. Ayes 5. Motion carried.

4. CONSENT AGENDA

Clapp moved to approve the consent agenda as presented approving the regular meeting minutes of April 23, 2013 as written. Anderson seconded the motion. Ayes 5. Motion carried. Grothe moved to approve the BOAA meeting of minutes of April 10 and April 23, 2013 as written. Clapp seconded the motion. Ayes 3. Motion carried.

5. MATTERS FROM THE FLOOR

None

6. SPECIAL BUSINESS

A. Three Rivers Park District – County Road 19 Trail Bridge – Kohlmann introduced Alex Meyer from the Three Rivers Park District who is present to discuss the proposed bridge over County Road 19. He noted a worksession is recommended on May 28 at 6 p.m. prior to the next City Council meeting to discuss easement proposals. **Alex Meyer, Three Rivers Park District** discussed the proposed bridge and discussed grants received for the project. He discussed the need for easements for the access in order to establish local connections. He asked for feedback from the City Council to determine whether one or two connections would be preferred. In response to a question from Clapp, Meyer noted there is a need for a staging area during the construction period. He also discussed the construction process. Anderson discussed his concerns about constructing a crossing at Manitou Park. Meyer stated it would be up to Hennepin County

to design what the crossing would look like. Grothe asked if there will be any discussion about this during the worksession relating to the park crossing. Meyer stated he could see if a County representative could attend the meeting to address this issue. Grothe stated he would be more inclined to have a solid median there. He was also concerned that there is enough trail property to avoid going onto private property for the trail construction. Meyer stated there is a need for an easement from Lan-de-Con for staging. **Anderson moved to set Tuesday, May 28 at 6 p.m. as the date for a worksession to discuss easement proposals for the bridge construction. Ansari seconded the motion. Ayes 5. Motion carried.**

7. PUBLIC HEARINGS

A. Conditional Use Permit Request – Fritz/Lorina Burgess, 20 Clay Cliffe Drive – Kohlmann reviewed the public hearing process for the benefit of those in the audience and introduced Kelsey Johnson, City Planner. **Kelsey Johnson, City Planner** reviewed the proposed location which is located at 20 Clay Cliffe Drive and zoned R-1A, Single Family Residential. She noted the property location and discussed the request for a swimming pool, sidewalk and amenities. She noted the applicants have requested an increase in impervious surface of 15.6%. The proposal is to have 11,937 square feet of impervious surface. She noted the request meets setback requirements. A significant amount of landscaping will screen the area from adjoining properties. She noted the use conforms to all performance standards and will not impact the character of the surrounding areas. She noted a shoreland impact plan is required to assure storm water is being handled appropriately. She stated staff is recommending approval of this request. **Mark Kalie, contractor** was present to answer any questions. Ansari asked how long the project would take. Kalie noted it would take 4-5 weeks. Ansari asked if the equipment will be staged in the area. Kalie noted where the equipment would be staged in the driveway. He stated no equipment will be left on the street. Clapp asked what kind of pool decking would be used. Kalie stated it would be span concrete. He described the pool decking area and upper patio materials in detail. De La Vega asked if the deck is two-level or if there are two decks. Kalie discussed the deck construction. De La Vega closed the public hearing. Grothe stated he didn't see any issues with the request. Clapp stated it is a nice design and he didn't have any problem with the request. De La Vega stated it is a nice design. He stated it would be a great improvement to the property. **Anderson moved to adopt:**

**RESOLUTION NO. 13-12
A RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO ALLOW AN INCREASE IN IMPERVIOUS SURFACE COVERAGE
FRITZ BURGESS AND LORINA BURGESS, 20 CLAY CLIFFE DRIVE**

according to the following findings of fact:

1. The use of the property will remain as a single family home which is consistent with the Comprehensive Plan.
2. The proposal is consistent with existing and future land use in the area.
3. If the Council approves a conditional use permit for impervious surface, all performance standards will be met with the proposed project.
4. Approval of the requested conditional use permit will not result in negative impact on the character of the surrounding area. There are numerous homes in Tonka Bay that have pools and patios in the rear yard. In addition, some significant trees exist in the rear yard and a privacy fence will be constructed for screening.
5. The property owners wish to construct a pool, patio, and outdoor kitchen and bar area to be able to better enjoy the rear yard of the property. Given that the improvements are all permitted accessory uses, staff finds the request reasonable.
6. The proposed improvements will not have any negative impact to adjacent property values and will enhance the appearance of the rear yard for the subject property.
7. The proposed project should not have any impact on public utilities.

and subject to the following conditions:

1. The applicant shall obtain all necessary permits and approvals from the City of Tonka Bay and other applicable entities with jurisdiction prior to any construction. This includes, but shall not be limited to a fence permit, and permits from the Minnehaha Creek Watershed District (MCWD) and the Lake Minnetonka Conservation District (LMCD).
2. The MCWD shall review and approve the final grading plans approved by the City Engineer prior to any work being authorized. Proof of MCWD approval shall be provided to the City prior to a building permit being authorized.
3. Silt fencing shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.
4. Construction shall follow the survey and plans as modified or as otherwise required to be updated by the City Engineer.
5. Building of structures shall not occur within any existing or proposed easements on the property.
6. The outdoor swimming pool shall be completely enclosed by a security fence or wall in compliance with Section 1011.05, Subd. 1(3) 1-5 of the Zoning Ordinance.
7. Per the Stormwater Facilities Management Agreement and Restrictive Covenant, the applicant shall:

- a. Agree to construct and maintain a storm water collection and detention system on his/her property as shown on the Detention System drawing.
 - a. Maintain and preserve the detention system until such time as the City, its successors or assigns, agree that the system should be altered in some manner or eliminated.
 - b. Not to dismantle, revise, alter or remove part of the system except as necessary for maintenance, repair or replacement.
 - c. Provide the City the right to ingress and egress over portions of the property in order to access the detention system for inspection and to reasonably monitor the system for performance, operational flows or defects.
 - d. Be responsible for inspecting and maintaining the detention system, on an annual basis. The property owner will provide a letter to the City Engineer by September 1st of each year stating that inspection and maintenance have been completed.
 - e. Assume all responsibility for the cost of any maintenance and for repairs to the detention system. Such responsibility shall include reimbursement to the City within thirty days after the City mails an invoice to the Owner for any work performed by the City. Overdue payments will require payment of interest by the Owner at the current legal rate as liquidated damages.
 - f. Obtain written approval from the City Engineer prior to performing any alterations or modifications to the detention system.
8. The City Engineer will verify and approve ingress and egress areas for City access to the storm water treatment system prior to issuing a building permit.
 9. The City Engineer shall inspect the property at the property owner's expense during the construction process to ensure on-going compliance with all engineering requirements.

Clapp seconded the motion. Ayes – De La Vega, Anderson, Ansari, Clapp and Grothe. Motion carried.

8. **OLD BUSINESS**

A. **Fire Lanes** – Kohlmann discussed proposed revisions to the fire lane ordinance that would add weight restrictions for the North Waseca fire lane. De La Vega proposed some language so that Class III fire lane is for fishing from shore, launching of boats, and access to the lake. In no case shall vehicular or boat access to the lake exceed 27' in length and/or 10,000 pounds in weight. Length would be defined. The swim platform language will be removed. Anderson stated it would cancel out any ice

house launching. De La Vega stated it would relate to the vehicle being pulled and not the tow vehicle pulling it and language should reflect it. Penberthy stated it does state it is the actual boat and not the vehicle pulling the boat. He stated the intent is to disregard the vehicle towing the boat as there will be all kinds of vehicle towing. He noted if vehicles are going to be included, then we need to define vehicle which is possible. De La Vega stated he would like to make it broader when it relates to weight so that it is not just boats. He cited duck boats as an example. Penberthy stated we don't care what it is called, the issue is what will it do? Grothe was concerned about when an ice house is driven onto the ice and what kind of vehicle would be towing the house. De La Vega stated if it causes a problem to the fire lane, then it should be restricted. Anderson believed the bigger the vehicle, the less damage it will cause. The smaller vehicles tend to spin their wheels as long as needed when pulling a boat off the lake. Penberthy suggested taking suggested language to bring back to the next meeting with options for an ordinance amendment. Council discussed proposed language. De La Vega stated he would provide language and asked how Councilmembers to do the same. It was suggested the posts be removed and a new surface be installed. Kohlmann reviewed options which include a 10' wide gravel road similar to what is on Woodpecker Ridge Road fire lane, reinforcement mesh which could support up to 7 tons, or do nothing and work around the posts as we have always done. He noted the mesh installation would fit into the current fire lane budget. Craig Plathe, 20 Bay Street stated it is a very tight and narrow fire lane with a ditch. He was concerned about vehicles falling in the ditch. He was also concerned because it is a park-like setting now and is well used. He believed if it is left the same, a barrier could be put up when the frost leaves the ground, and it could be left the same. De La Vega asked if mesh has ever been used before. Kluver stated we have not but the MCWD has indicated they are in favor of this kind of material. He noted it is placed down in the spring, and the grass would grow through it. It would be more supportive than regular turf. After the grass is established, the material would be unnoticeable. Ansari asked how long it lasts. Kluver stated there isn't a long history with it but he could contact the company that sells it. Johnson stated she would ask around and provide information to Kohlmann. Clapp stated his company has used it in the past. The only problem is it could move with the water table coming up. Kluver was also concerned about spinning tires causing damage. Penberthy asked if it could be posted when road restrictions go on in the spring. Anderson asked if there is a grant available through MCWD for this. It was noted this could be researched. De La Vega asked if it was used for vehicular access when it was open. Plathe stated it was hardly used although some high school kids used the fire lane. Kluver stated a speed limit also needs to be established. Plathe was concerned about how it would be monitored. Penberthy suggested a neighborhood watch be established to begin with to monitor activity after it is converted. A member of the audience stated he would be in favor of the mesh installation rather than the gravel. Grothe stated he is totally opposed to having a gravel road. He believed the mesh would be a good solution. De La Vega stated he also

preferred the mesh fabric and asked staff to research it further for the next meeting.

9. NEW BUSINESS

A. Approve Lifeguarding Services Proposal – Kohlmann stated we have received a number of proposals from the Minnetonka School District for lifeguarding services. One option is to have the same service as in previous years for the price of \$10,822. Another option, a two year contract, would cost \$9,060 the first year and \$10,822 the second year. Kohlmann asked for input on which contract they would prefer. Anderson asked what the obligation is to even provide lifeguards. De La Vega stated it is not in any ordinance but is a service we choose to provide. If lifeguards are not on duty, swimmers would swim at their own risk and there would be no liability. If the service is offered, there is a liability. He also discussed beach usage. Kohlmann reviewed lifeguard hours. Clapp stated he supports lifeguards at the beaches. De La Vega stated he doesn't want to pay more than what has been paid in previous years. He would prefer a two-year contract at \$8,775 with a one-hour reduction in service every day. He is aware of people who wait for the lifeguards to leave before they go to the beach. Anderson asked if this is paid up front. Kohlmann noted it is paid at the end of the season. Anderson believed we usually come in under budget since we do not pay when the lifeguards aren't there because of the weather. Ansari discussed the importance of having jobs for area residents as lifeguards. Clapp suggested a survey be done of usage. He stated he would like to know if it is a well-liked service. De La Vega stated he understands there is a consensus that the Council wants lifeguards and the question is what we should pay for the service. He suggested it be brought back to the next meeting for final approval. He stated he also likes the two-year contract. **De La Vega moved to direct staff to come back with a 2-year agreement with a one hour reduction at each beach.**

B. LMCC – De La Vega noted there is a meeting on May 15 at the LMCC to discuss resolutions adopted by the various cities. Grothe asked for input on any language they would like to see in the franchise. Kohlmann stated one option is to review the resolution we sent them. De La Vega commented on the number of votes per city which he believed should be based on the number of subscribers rather than the number of households in each city. He also commented on the wording of the withdrawal language for cities. He also asked if a new negotiation would require a new franchise ordinance. Penberthy stated it would be an ordinance amendment rather than an entirely new ordinance. Councilmembers and staff reviewed the proposed joint powers agreement. Grothe stated one question would be since we have submitted something to them with our direction, if they disagree, where will we go from there? De La Vega stated he would assume it is based on what the ordinance permits. He stated our position is still the same – we would like the voting preference to change and we would like some of the funds back.

C. Flooring in Basement – Kluver stated the budget allows for the tile replacement in the basement as well as repainting. He stated the existing tile was installed in the 1970s. Staff is proposing it be replaced with porcelain tile and the walls be repainted. The work would be done in two stages. The painting would be done first. City crew would remove the old floor and a contractor would install the new flooring. He reviewed the quotes received for the painting and tile installation. The total cost would be \$9,587.90 and the budgeted amount is \$7,500. The work would be done during regular work hours. The total bid would be \$2,087.90 over the original budgeted amount. The cost would be offset by future equipment trade-ins and equipment savings. He discussed the difference between vinyl and porcelain tile costs. He believed the porcelain tile would last longer and would not be as subject to moisture as vinyl would. It would also be more durable. He noted the current floor has been in poor condition for several years. De La Vega was concerned about the cost given it is not a public area of the building. He stated he asked what it would cost to replace with the same materials. Councilmembers discussed issues associated with moisture and possible mold under the current flooring. Kluver noted his truck is scheduled for replacement which would be used as a trade-in on a new vehicle which would result in a cost savings to offset the floor cost. **Anderson moved to approve quotes received from Matt Drahos in the amount of \$1,350 for painting, Big City Stone & Tile in the amount of \$6,315.90 for tile installation, and the independent tile purchase of \$1,922.00 for a total of \$9,587.90. Clapp seconded the motion. Penberthy noted the Drahos quote is \$1350 as a total while the total was actually \$1300. The motion was amended. Ayes 5. Motion carried.**

Tape was changed and Council recessed for a short while.

10. MATTERS FROM THE FLOOR

None

11. REPORTS

A. Administrator – Kohlmann noted May 30 at the Southshore Center from 5-8 p.m. is the date for a private party for Greg Kluver. He stated an anonymous donation of \$250 has been received under the condition it is matched.

B. Anderson - Finance, Fire Lanes and Public Access, Technology – no report

C. Ansari – EFD, Sanitation and Recycling, Southshore Community Center – no report

D. Grothe – Building Inspection, Municipal Buildings and Grounds, LMCC – Grothe stated he met with the new Public Works Superintendent and Kluver to review buildings, grounds and equipment. He will be attending the LMCC meeting on May 15.

E. Clapp - Parks and Playgrounds, LMCD, Commercial Marinas, Municipal Docks – Clapp stated he, Ansari and De La Vega attended a meeting held by the Metropolitan Council to discuss trail needs in the metropolitan area. De La Vega noted Met Council has been provided a copy of our trail report. Ansari noted she would be attending an Excelsior Fire District meeting in the near future.

F. Attorney's Report – no report

G. De La Vega - Public Works, SLMPD, Administration – De La Vega stated he has received a letter from Mayor Zerby from Shorewood in an effort to create a body of people to work on combining Public Works departments in Shorewood, Excelsior and Tonka Bay. We will participate in the process to see if there is an impact on how we do business. He stated this is an exploratory process that is currently underway. A meeting will be held at the SLMPD to discuss their budget.

12. ADJOURNMENT

There being no further business, it was moved by Anderson to adjourn the meeting at 9:15 p.m. Ansari seconded the motion. Ayes 5. Motion carried.

Attest:

Clerk