

**CITY OF TONKA BAY
ITEM NO. 4A**

**MINUTES
TONKA BAY CITY COUNCIL
REGULAR MEETING
September 10, 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, and City Attorney Penberthy.

3. APPROVAL OF AGENDA

Anderson moved to approve the agenda as submitted. Clapp 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 August 24, 2013. Anderson seconded the motion. Ayes 5. Motion carried.

5. MATTERS FROM THE FLOOR

None

6. SPECIAL BUSINESS

None

7. PUBLIC HEARINGS

A. Variance Request – Kim and Carol Culp, 20 Old Orchard Lane –
Kohlmann reviewed the public hearing process for the benefit of those attending the meeting and wishing to speak at the hearing. **Kelsey Johnson, Planner** reviewed the request for a variance to allow for the installation of a swimming pool on the lake side. She indicated the lake side is considered the front yard, and no accessory uses are allowed in the front yard under current ordinances. Through an aerial photograph, she noted the location of the proposed pool in relation to existing structures. She reviewed the site topography and existence of many significant trees on the site. She discussed hardcover on the site and noted the proposed percentage is 28.33% which would require City Engineer review. Johnson reviewed the statutory criteria for this use. She stated

because of the topography and significant trees on the site, it appears to be appropriate for the pool to be on the lake side. She stated site constraints would make it difficult to have the pool on the rear of the lot. She reviewed zoning code requirements for this use. She stated a storm water management plan would be required with the building permit application. Ansari asked if any changes to hardcover would require additional approvals. Johnson explained situations where additional review would be needed or a conditional use permit would be required. Clapp asked if additional grading would be required. **Michael Mulvany, representing the applicants** stated he has submitted additional grading information to the City Engineer. Clapp asked why the Council did not have that information. Mulvany explained grading on the site and relocation of the dirt on the site. Johnson stated the grading plan approval would be part of the building permit approval process. De La Vega asked if the fence would be as shown on the plan. Councilmembers discussed the proposed fence location. Ansari asked if there will be any additional vegetation around the fence or if trees would be removed. It was noted there would be no removal of significant trees. De La Vega opened the hearing for public comments. **Steve Dunphy, 40 Old Orchard Lane** didn't believe that pools should be allowed on the lake side. He discussed his concerns about the location of the pool and fence and property value impacts. He noted other pools in the City are on larger lots and not visible to neighboring properties. He was concerned about the size of the pool in relation to the lot size. He believed the existing ordinance was written to prohibit pools on the lake side. He believed there is ample land to move the pool to the other side of the property. The pool on the street side would not be seen from the road because of the long driveway. He requested the fence be put just around the pool and not the entire yard. **Carol Culp, applicant** noted the pool will be tucked very close to the house and the neighbors would have to be looking hard to see the pool. She believed the fence would not be seen because of the vegetation. Mulvany noted if the pool were moved to the street side, utilities would have to be relocated. De La Vega closed the public hearing. Clapp stated his only issue was the lack of a grading plan for review. He stated he was okay with the plan. He was okay with the dirt being removed off the site. Grothe believed the pool and fence locations are at its least obtrusive location. He believed the fence is not part of the viable approval. He recommended approval of the request. Anderson agreed with comments made. Ansari also concurred but stated she visualized the fence location as proposed by Dunphy and whether that would be a variable option. Grothe stated it would impact the feel of the yard if the fence were moved closer to the pool. De La Vega stated any noise issues can be resolved. He was okay with the pool and fence location. He supported the request. De La Vega stated he would like to recommend that dirt be removed off the site. Kim Culp stated he is more than willing to have dirt removed from the site. Councilmembers discussed having the Engineering report available for review at the next meeting. **Grothe moved to adopt:**

RESOLUTION NO. 13-21

A RESOLUTION APPROVING A VARIANCE TO ALLOW FOR THE INSTALLATION OF A SWIMMING POOL IN THE FRONT YARD (LAKESIDE) OF THE PROPERTY FOR CAROL AND KIM CULP AT 20 OLD ORCHARD LANE

based on the following findings of fact:

1. The proposed use as a single-family home will not change and is consistent with the comprehensive plan.
2. Granting the requested variance will not impair an adequate supply of light and air to adjacent parcels.
3. Granting the variance will not increase congestion in the public street. The use of the property as a single-family home will stay the same and not increase congestion.
4. Granting the variance will not increase the danger of fire or endanger the public safety.
5. Granting the variance will not diminish or impair established property values in the neighborhood. However, locating the swimming pool on the street side of the property may have adverse effects on neighboring property values.
6. Granting the variance will not alter the essential character of the locality. The swimming pool should not reasonably detract from views of the lake from adjacent property. The lakeside of the property presents a much more reasonable location for a swimming pool than the street side of the property in terms of the existing topography and preservation of significant trees.
7. The request for a swimming pool is reasonable given the use as a single-family home.
8. The variance request is in harmony with the general intent of the ordinance and will not lead to an overcrowding of homes. The ordinance states that the lakeside of riparian lots shall be considered the front yard. It also states that accessory structures and uses shall not be permitted in front yards.

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 permits from the Minnehaha Creek Watershed District (MCWD) and the Lake Minnetonka Conservation District (LMCD).
2. The approval of the building permit for the swimming pool is contingent upon the Applicant obtaining a fence permit that meets city code and the swimming pool regulations.
3. 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 (if needed) shall be provided to the city prior to a building permit being authorized.
4. Erosion control measures shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.
5. Building of structures (including but not limited to pool equipment storage structures) shall not occur within any existing easements on the property.
6. The applicant shall work with the City Engineer on a plan to treat stormwater on site. Plans for this treatment will be subject to review and approval by the City Engineer prior to issuance of a building permit.
7. 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.
8. The building permit is for the swimming pool.
9. The variances shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.

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

8. OLD BUSINESS

None

9. **NEW BUSINESS**

A. **2014 Proposed Budget Levy Certification** – Kohlmann noted the general fund levy will not increase over this year's budget. He noted once it is adopted it cannot be raised. The final levy will be set in December to the State Auditor. Councilmembers and staff discussed whether any approved increase to union negotiations would impact the levy limit. **Anderson moved to adopt:**

RESOLUTION NO. 13-22

A RESOLUTION APPROVING 2014 TAX LEVY, COLLECTIBLE IN 2015

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

B. **Brentwood Avenue Speed Sign** – Kohlmann stated a resolution has been prepared to authorize the placement of a speed limit sign on Brentwood Avenue. He noted the Police Chief has also been contacted to approve the sign location. **Clapp moved to adopt:**

RESOLUTION NO. 13-23

**A RESOLUTION AUTHORIZING THE PLACEMENT
OF A 20 MILE PER HOUR SPEED LIMIT SIGN
ON BRENTWOOD AVENUE**

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

10. **MATTERS FROM THE FLOOR**

None

11. **REPORTS**

A. **Administrator** – Kohlmann stated he has been working with the Three Rivers Park District to set a worksession at the September 24 City Council meeting to review the final plans. The Council concurred such a worksession would be set on September 24 at 6:00 p.m.

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 the LMCC will hold a meeting the week of September 16.

E. Clapp - Parks and Playgrounds, LMCD, Commercial Marinas, Municipal Docks – no report

F. Attorney's Report – no report

G. De La Vega - Public Works, SLMPD, Administration – De La Vega discussed attendance at a boat tour to review efforts to reclaim shorelines around the lake.

12. ADJOURNMENT

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

Attest:

Clerk