

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

**MINUTES  
TONKA BAY CITY COUNCIL  
REGULAR MEETING  
January 8, 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, and Clapp. Also present were City Administrator Kohlmann, City Attorney Penberthy, and Public Works Superintendent Kluver.

**3. ORGANIZATIONAL BUSINESS**

**A. Oaths of Office** – Kohlmann administered the oaths of office to incoming Mayor De La Vega, Councilmember Ansari, and Councilmember Clapp.

**B. Adopt Resolution Accepting Resignation and Declaring Vacancy** – De La Vega noted Holscher has submitted a letter of resignation from the City Council. There was no discussion. He recommended the resignation be accepted. **Anderson moved to adopt:**

**RESOLUTION NO. 13-01  
A RESOLUTION ACCEPTING RESIGNATION AND  
DECLARING VACANCY**

**Clapp seconded the motion. Ayes – De La Vega, Anderson, Ansari and Clapp. Motion carried.** De La Vega thanked Holscher for her years of service and wished her the best in her future endeavors.

**C. Adopt Resolution Appointing New Councilmember** – De La Vega suggested Jonathan Grothe be appointed to the position of Councilmember. **Anderson moved to adopt:**

**RESOLUTION NO. 13-02  
A RESOLUTION APPOINTING  
JONATHAN GROTHE AS NEW COUNCILMEMBER**

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

**D. Oath of Office – Jonathan Grothe – Kohlmann administered the Oath of Office to incoming Councilmember Jonathan Grothe. He joined the Council at the Council table.**

**4. APPROVAL OF AGENDA**

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

**5. CONSENT AGENDA**

**Anderson moved to approve the regular meeting minutes of December 11, 2012 as written. Clapp seconded the motion. Ayes 5. Motion carried.**

**Anderson moved to adopt:**

**RESOLUTION NO. 13-03  
A RESOLUTION APPROVING OFFICIAL CITY APPOINTMENTS**

**And**

**RESOLUTION NO. 13-04  
A RESOLUTION SETTING 2013  
WATER AND SEWER CONNECTION CHARGES**

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

**6. MATTERS FROM THE FLOOR**

None

**7. SPECIAL BUSINESS**

None

**8. PUBLIC HEARINGS**

**A. Variance and Conditional Use Permit Requests – Mark Fougner, 100 Interlachen Lane – Kohlmann reviewed the public hearing process for the benefit of those in the audience. Kelsey Johnson, City Planner reviewed the request for 100 Interlachen Lane. She noted the property is guided for single family residential and is zoned R-1A. She reviewed the aerial photograph of the site which showed the outline of**

the existing structures on the site. She reviewed the request to remove the existing detached garage and shed and attach a garage to the existing single family home on the property. She stated a new concrete walk and foyer are also proposed. She reviewed the building elevations as proposed. She noted an 8,545 square foot variance is required from the required minimum lot size, a 0.4 foot variance is required from the side yard setback along the east property line, a 3.6 foot variance is required from the side yard setback along the west property line, and a variance is also required from the 15-foot floodplain buffer. She reviewed the criteria for approval of variance requests. She reviewed the conditional use permits required which include one to allow a home on a lot that is less than sixty percent of the required lot width, an 18.9% increase to the allowed impervious surface totaling 43.9%, and a 13.9% increase to the allowed floor area ratio totaling 43.95%. She reviewed the criteria for approval of the requests. She noted the applicants are working very closely with the City Engineer on the creation of rain gardens on the site. She recommended approval of the request. De La Vega asked if this is an existing non-conformity. Johnson stated that this is the case as they are already non-conforming. Grothe asked how close the corner of the house is to the property line as it appears to be closer than the 4.4 feet as noted. Johnson stated if the Council approves the request at 4.4 feet, the applicants would have to request a new variance if they change the footprint of the house. Clapp asked if it is the intent to drain the driveway into the rain garden. It was stated this would be correct. **Matt Prettyman, architect for the applicant** stated there is another draft showing an additional rain garden that would catch the drainage from the driveway. De La Vega opened the hearing for public comments. There were no comments and the hearing was closed. De La Vega stated this is a straightforward request. Grothe stated he was concerned about how close the corner of the house is to the property line and discussed safety issues. He wanted to assure the fire marshal would check this request. He was pleased with the proposal otherwise. He stated it appears to open up views for the neighbors. He stated he would like to see pavers rather than asphalt for the driveway. **Anderson moved to adopt:**

**RESOLUTION NO. 13-05**

**A RESOLUTION APPROVING VARIANCES TO LOT AREA, SIDE YARD SETBACK AND FLOODPLAIN BUFFER AND CONDITIONAL USE PERMITS FOR LOT WIDTH, FLOOR AREA RATION, AND IMPERVIOUS SURFACE FOR MATT FOUIGNER AND JESSICA FOUIGNER, 100 INTERLACHEN LANE**

**Based on the following findings of fact:**

- 1. The proposed use as a single-family home is consistent with the comprehensive plan.**
- 2. Granting the variances and conditional use permits will not impair an adequate supply of light and air to adjacent parcels.**

3. **Granting the variances and conditional use permits 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 variances and conditional use permits will not increase the danger of fire or endanger the public safety.**
5. **Granting the variances and conditional use permits will not diminish or impair established property values in the neighborhood. The proposed improvements should increase property values in the neighborhood.**
6. **Granting the variances and conditional use permits will not alter the essential character of the locality. The proposed improvements to the home will fit in with other homes in the neighborhood.**
7. **The proposed additions are reasonable given the use as a single-family home.**
8. **The dimensions and size of the parcel were not created by the current owners. These are circumstances unique to the property.**
9. **The variance and conditional use permit requests are in harmony with the general intent of the ordinance and will not lead to an overcrowding of homes. The ordinance requires the property owner to treat water runoff due to the fact that there is more than 25 percent impervious surface on the lot.**
10. **Grading on the site of more than two feet is not anticipated to result in drainage impacting adjacent parcel**

**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 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. **Erosion control measures shall be shown on the building permit plans and shall be subject to review and approval by the City Engineer.**
4. **A sump pump inspection must be completed by the City of Tonka Bay prior to C.O. being issued.**

5. **A water meter inspection must be completed by the City of Tonka Bay prior to C.O. being issued.**
6. **Building of structures shall not occur within any existing or proposed easements on the property.**
7. **Per the Stormwater Facilities Maintenance Agreement and Restrictive Covenant, the applicant shall:**
  - a. **Agree to construct and maintain a stormwater collection and detention system on his/her property as shown on the Detention System Drawing.**
  - b. **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.**
  - c. **Not to dismantle, revise, alter or remove part of the system except as necessary for maintenance, repair or replacement.**
  - d. **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.**
  - e. **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.**
  - f. **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 30 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.**
  - g. **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.**
10. **The variances and conditional use permits shall expire one year from the date of the resolution. City Council approval will be required for any subsequent extension.**

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

8. **OLD BUSINESS**

None

9. **NEW BUSINESS**

**A. Establish Local Board of Appeals Meeting Date** – De La Vega discussed the suggested date for the Board of Appeals meeting on April 10. He suggested it start at 6:30 p.m. **Anderson moved to establish Wednesday, April 10, 2013 at 6:30 p.m. as the date of the local Board of Appeals meeting. Clapp seconded the motion. Ayes 5. Motion carried.**

**B. Ordinance Section 200 – Review and Discuss** – De La Vega stated this ordinance sets forth the duties of the City Council. He discussed changes which could be made. He noted the language regarding the liquor store should be removed. He stated one of his objectives is to reduce costs wherever possible. He suggested the language relating to the City Council pay be amended so that members are only paid when they attend meetings. He stated Subdivision 4 should be deleted to achieve that. He asked the Council for their comments. Clapp stated he would support the change. **De La Vega moved to direct staff to make the ordinance changes and bring it back to the Council for a first reading. Clapp seconded the motion. Ayes 5. Motion carried.**

**C. 2013-2014 Proposal for Lime By-product Removal** – Kluver stated Litzau Excavating is proposing a 2-year renewal on their contract with the City for the lime by-product removal. He stated the rates would remain the same as 2011-2012. He stated they have held the contract for the last four years. De La Vega asked if this was below the threshold where getting sealed bids would be required. Penberthy stated it was below the threshold. Kluver discussed the removal process and previous history with Litzau Excavating. Ansari asked if insurance was required. Kluver stated they are required to provide proof of insurance and must be licensed with the State of Minnesota. Clapp asked if dumping fees should be added under Scope of Work on page two. Penberthy stated the dumping fees are their responsibility. **Anderson moved to authorize the City**

**Administrator and Public Works Superintendent to enter into an agreement with Litzau Excavating, Inc. for lime by-product removal at \$32/cubic yard for 2013 and 2014. Clapp seconded the motion. Ayes 5. Motion carried.**

**10. MATTERS FROM THE FLOOR**

None

**11. REPORTS**

**A. Administrator** – Kohlmann stated we have received a proposal from the Excel Boat Club for boat rental at the Caribbean. He noted the proposal is compliant with City Code requirements and do not need any special permits with the City. De La Vega stated there was discussion about signage. He noted they would be required to get sign permits if necessary. He urged the owner of the boat club to be sensitive of activities at the fire lane nearby. Kohlmann stated the website update has been provided for review.

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

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

**D. Jonathan Grothe – Building Inspection, Municipal Buildings and Grounds, LMCC** – De La Vega stated there is an LMCC meeting on Thursday.

**E. Jeff Clapp - Parks and Playgrounds, LMCD, Commercial Marinas, Municipal Docks** – Clapp reported Arctic Fever will be at Manitou Park on January 19.

**F. Attorney's Report** – no report

**G. De La Vega - Public Works, SLMPD, Administration** – no report

**12. ADJOURNMENT**

**There being no further business, it was moved by Anderson to adjourn the meeting at 7:50 p.m. Grothe seconded the motion. Ayes 5. Motion carried.**

Attest:

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Clerk