

CITY COUNCIL MEETING
Tuesday, January 21, 2014

CITY COUNCIL PRESENT: Asia Bednar, Amy Williams, Richard Glasgow, Joe Paiement, Robert Livingston

STAFF PRESENT: Chris Wallberg, Matt Kline, Ron Moore, Steve Iverson, Tom Niedzwiecki, Chris Johnson, John Parotti

OTHERS PRESENT: Diane Wirth, Chris White, Brad Lahr

1. **CALL TO ORDER** by Mayor Livingston at 6:03 p.m.
2. **PLEDGE OF ALLEGIENCE** *was recited.*
3. **CONSENT AGENDA** – Livingston made an addition to the Consent Agenda. He stated there is a prospective buyer for Beanies at Maui's Landing and the Mau's requested confirmation that the CUP would be transferable with the property. Livingston read a letter into the record from the City Clerk confirming that Beanies at Maui's Landing CUP is transferrable with the property. Glasgow requested to have item G pulled from the consent agenda. Niedzwiecki stated an error may be present in item D. Livingston stated item D would be pulled. Livingston added that item G was present on the consent agenda because a proper motion was not voted on at the previous meeting. **M/S/P(Glasgow/Williams) to approve Consent Agenda items A, B, C, E, F with the addition and approval of item H. Passed Unanimously.** Niedzwiecki stated he believes his appointment should be Treasurer. Livingston stated that he understood that Niedzwiecki had not been Treasurer since 2012. Niedzwiecki stated his understanding is that he has been Treasurer and always desired to fill that position. Livingston stated appointments could be deferred until February but State Law indicated appointments should be made in January. Livingston stated the Lower St. Croix Valley Fire Protection District Audit Committee Representative was changed from Steve Iverson to Amy Williams. **M/S/P(Williams/Glasgow) to approve Resolution 2014-01 approving City Annual Appointments amended to appoint Amy Williams as the Lower St. Croix Valley Fire Protection District Audit Committee Representative, remove the appointment of Thomas Niedzwiecki as City Auditor and remove the appointment of Steve Iverson as Acting Treasurer.** Livingston stated he wished to remove item D and would not make appointments. Williams stated she wished to drop the Acting Treasurer appointment and adopt the rest of the appointments so the City would remain in compliance. Livingston stated he suggested pulling the appointments because he questions the City's financial management arrangements and feels the subject warrants further discussion. Williams stated concern that further discussion is now needed considering the Resolution would have been adopted if Niedzwiecki wouldn't have requested to have pulled it from the Consent Agenda. Niedzwiecki stated state statute requires a full audit to take place if the Clerk and Treasurer position is combined. Niedzwiecki stated he is not interested in being appointed the City's Auditor. There was discussion regarding the fact that Niedzwiecki is not under contract to provide services to the City. Niedzwiecki indicated he has nearly completed a contract he intends to present to the Personnel Committee. Williams suggested that Niedzwiecki could continue in the same role without a contract until clarification regarding financial management was reached. Williams indicated she would like to adopt the appointments without appointing Niedzwiecki as Auditor and removing the appointment of Acting Treasurer. **Roll call – Glasgow, Williams, Bednar voted aye. Livingston abstained. Resolution adopted as amended.** Glasgow requested to have item G voted on again. White questioned why another vote was necessary. Livingston stated the original vote was flawed because a motion was not made. The Recorder clarified that a formal motion was not made at the previous meeting. **M/S/P(Williams/Paiement) to confirm adoption of Consent Agenda Item G, Resolution 2013-26 Supporting the Washington County Request for \$5,000,000 in State Bond Funds for the Gateway Corridor Commission. Roll Call –Williams, Paiement, Livingston voted aye. Glasgow, Bednar voted nay. Resolution adopted.**
 - A. Minutes of the December 17, 2013 Regular City Council meeting
 - B. Treasurer's Report
 - C. Bill to be Approved
 - D. Resolution approving City Annual Appointments
 - E. Resolution approving re-appointment of Diane Wirth and appointment of Jeri Ryan to the Planning Commission for three-year terms to expire February 1, 2017
 - F. Final AFP No. 2 for 2012 Streets Projects to Hardrives, Inc. in the amount of \$37,493.37
 - G. Confirmation to "adopt Resolution 2013-26 Supporting the Washington County Request for \$5,000,000 in State Bond Funds for the Gateway Corridor
 - H. Letter for Beanie CUP

4. **LAW ENFORCEMENT REPORT** – Williams yielded to Deputy Sullivan. He stated that nothing of significance had taken place other than a suicide of an individual who jumped off the I-94 bridge. He stated the body of the suicide victim was recovered. He stated there was a rollover accident at St. Croix Trill and South 7th Street. Williams stated she had exchanged e-mails with Bednar regarding a “Night to Unite” event.
5. **PETITIONS TO THE COUNCIL** - None.
6. **PROPOSED ORDINANCE RE: OUTSIDE USES IN THE RETAIL BUSINESS DISTRICT – Adopt Ordinance and Summary Resolution** – Moose stated the Planning Commission worked diligently on the development of standards for Outside Uses Accessory to Restaurants and similar uses in the Retail Business District. This ordinance applies to patio and outside seating areas accessory to restaurants and similar uses. The Planning Commission had worked on developing the ordinance for a significant amount of time and had received feedback from several citizens. A public hearing pertaining to the ordinance was held on January 7, 2014. In summary, the ordinance amendment would allow outside uses accessory to restaurants with a number of restrictions through a CUP or IUP. He stated there are restrictions related to noise, location, lighting and timing all aiming at protecting the residential district located to the west of the business district. Glasgow stated concern over how the proposed ordinance would affect residents of the potential Senior Housing Development. Moose stated the ordinance amendment is tailored toward Retail Use and is not applicable to Residential Uses. Glasgow stated concern that the ordinance references “similar uses” and stated he would like to see it be applicable specifically to restaurants. There was further discussion regarding how the proposed ordinance would affect a potential Senior Housing facility. Johnson stated this ordinance would be applicable and specific conditions could be added to a property’s CUP to allow outdoor activity. Williams stated specific concern that residents of the potential Senior Housing facility would only be able to prepare food outdoors 10 times per year due to the restrictions of the proposed ordinance. Livingston discussed fires in multi-family residential dwellings. White stated the Senior Center, and any potential restrictions it may face, could be addressed when the Senior Center is actually constructed. There was discussion regarding times allowed for outdoor music and outdoor equipment usage. There was discussion regarding the allowance of smoking and the potential effect on surrounding residential neighborhoods. White stated smoking was thoroughly discussed and would be restricted by the current nuisance ordinance. Glasgow reiterated his concern over effects on potential Senior Housing. Moose suggested amending the title of the ordinance to “similar retail uses”. He added the Planning Commission intended the ordinance to be applicable to retail uses and it was not intended to limit residential uses. The Council agreed they would be comfortable proceeding with the ordinance with the amended title. White stated on behalf of the Planning Commission that amending the title would be acceptable. There was discussion regarding allowing outdoor events to take place for 10 days per year. White stated that residents indicated they are comfortable with 10 events per year. There was discussion regarding only allowing outdoor uses on the east side of establishments. White stated that provision was added to eliminate the impact on residential zones. **M/S/P(Williams/Glasgow) to adopt Resolution 2014-3, adopting ordinance 7541, amending chapter 159 of the Lakeland Zoning Code to provide standards for outside uses accessory to restaurants and similar retail uses in the retail business district. Roll Call – Glasgow, Williams, Livingston, Paiement & Bednar voted aye. Resolution adopted as amended.**
7. **POLICY RE: STANDARDS FOR TEMPORARY OUTSIDE SALES & EVENTS IN THE RETAIL BUSINESS DISTRICT – Approve Policy** - Wallberg introduced the proposed policy and stated it is a set of standards for temporary outside sales & events in the retail business district and added the Planning Commission has recommended approval. **M/S/P(Williams/Glasgow) to adopt the standard policy for Temporary Outside Sales & Events in the Retail Business District.** Williams stated she would like to see the institution of a numbering convention for City policies. There was discussion regarding Carnival Standards and the provision allowing three consecutive calendar days per event. **Passed Unanimously.**
8. **PUBLIC BANNER SIGNS** - Wallberg stated the Planning Commission had put a large amount of effort into addressing this subject but had a number of concerns in need of addressing. One of the largest concerns was uncertainty over the actual amount of revenue that would be generated by the banners. The Planning Commission voiced concern that maintaining the banners would be costly. They also felt that Public Banner Signs should be discussed in a larger context regarding generating revenue for City Parks. The Planning Commission requested Council review the issue of Public Banner Signs to provide more direction. Bednar stated Livingston and Glasgow indicated advertising banners at Crocker Park had been discussed in the past, which led to her examining the possibility. She indicated she spoke with the City Clerk in Lake St. Croix Beach to obtain more information regarding their use of banner advertisements. She provided more specifics on the Lake St. Croix Beach banner standards. She

stated she was interested in the revenue that could be generated for the Parks but was not strongly opinionated on the matter. Livingston asked if a Public Hearing took place. Bednar stated that was her expectation. Williams stated her feeling was that while everyone agreed that revenue would be beneficial, residents indicated a strong opposition to allowing banners. She added she felt that the Planning Commission was apprehensive to continue with developing standards based on the public opposition and desired direction from the Council. White stated the Planning Commission was close to finishing a draft but residents stated opposition to banners. She added the Commission felt it is necessary to examine alternative ways to generate revenue such as increasing field rental fees. Bednar stated she thought it would be a nice addition with revenue as a bonus but also recognized that residents surrounding the park may object. White stated they revenue generated was viewed as insufficient and the Planning Commission would've recommended a \$500 fee as opposed to \$200. **M/S/P(Williams/Livingston) to table the issues of Public Banner Signs.** Williams stated she does not want to agitate residents and doesn't feel a real outcry would be heard until banners went up. She feels it would be wise to examine other sources of revenue. Bednar stated she feels residents would have an opportunity to voice opinion if a Public Hearing took place. Wallberg stated she notified residents surrounding Crocker Park who attended the Planning Commission meeting and opposition was voiced. She added that if the ordinance regarding signage in residential zones was amended that public hearing would be necessary and would be required to cover all parks and public fences. Paiement stated allowing advertising could change the character of Lakeland's parks and he is against it. **Livingston, Williams, Bednar, Paiement voted aye. Glasgow voted nay. Motion Passed.**

9. **2014 STREETS PROJECTS / Seal Coat – Crack Seal** – Kline stated staff is proposing approval of the 2014 Street Project which is a maintenance project that includes seal coating and crack sealing. A map outlining the streets to be addressed was provided in the materials. He stated the last seal coating took place in 2010 and normally the seal coating takes place every 5 to 7 years. He added there are certain streets that did not get seal coated during the 2010 project that are in need of maintenance. Kline and Parotti completed a street survey in 2013 and plan to complete one on a bi-annual basis in the future. The project falls into capital improvement plan, which will be presented at a workshop prior to the February City Council meeting, and funds are already budgeted and in place. He introduced the Street CIP document which detailed the streets that will be seal coated or crack sealed. He also presented other areas that will receive attention which include the parking lot of Humphries Park, the Water Utility and the parking area at City Hall. The total estimated cost of the project is \$148,920.48. SEH is proposing to provide bidding documents and construction services, which will cost \$10,000. 15% of the total project cost is generally estimated for soft costs so the SEH bid of \$10,000 falls below the amount usually anticipated. He stated staff is requesting a motion for SEH to proceed with bid document preparation. He stated he would be returning to request approval on bids received in February. Williams stated Quality Avenue South, which her house is located on, is in bad condition and questioned why it was not included on the CIP. Kline stated it was slated for replacement in 4 or 5 years based on the CIP. Williams stated she would like the Council to consider appropriating funds for a safety study on Quality Avenue South at the intersection of 3rd Street. She stated that particular section of Quality Avenue South is very dangerous. Kline stated the area could be examined by the City Engineer. Parotti stated he could suggest an economical approach to examine the area. Parotti suggested a work session or comment cards for residents to provide input regarding the street. There was discussion regarding new legislation concerning cancer-causing agents in seal coating material. Parotti stated City projects have not used that type of material for a long time and the legislation addressed residential seal coating. Glasgow stated a desire to have Parotti write a report on the subject, which Parotti offered to do. **M/S/P(Williams/Glasgow) to authorize bid documentation preparation by SEH for the 2014 Street Improvement Project. Passed unanimously.**

10. **ONLINE PAYMENT OF WATER BILLS** - Kline stated that a conference with Payment Services Network took place to examine online and telephone payment options for the Water Utility. He stated that numerous residents have requested the option to pay online or by phone. He stated that in the past it would've been cost prohibitive based on processing fees being absorbed by the Water Utility. Options now exist to pass along those fees to the customer. He presented different options for fee payment. He explained how inputting into the Water Utility billing system would take place. He stated the purchase of an automatic clearinghouse module would be necessary to automatically input billing into Payment Services Network. He added that online bank payments would be free with the purchase of the module. The cost of the module is \$1,750 with a \$175 annual support fee. Williams stated she spoke with Kline regarding potential areas of concern with this issue, including data security. She added they agreed this issue is better suited for discussion in a workshop setting. Kline stated he would like Council input before it goes to workshop so he can collect data. Kline added he spoke to Washington County about property tax online payments. He stated the County Commissioners did not want advertisement of online tax payment due to prior commitment to credit counseling. The County informed him that only 5% of taxpayers used the online payment option but that may be a poor barometer based on the lack of advertisement. Kline indicated he intended to contact the Hudson Water

Department to examine their online payment usage rate. He stated the online payment option would allow one-time payments or automatic payments. Glasgow suggested looking into quarterly billing. Kline explained the PSN annual costs.

11. PARKS / PURCHASE OF PARK STRUCTURES – Bednar stated a workshop took place prior to the meeting regarding improvements at Humphries Park. She stated her interpretation of opinions shared by residents at the workshop was they desired additional playground equipment at Humphries Park. She added she requested a “not to exceed by price” of \$45,000 so research could be done to determine which equipment could be purchased. Williams stated her interpretation was that improvements at Humphries Park were still being discussed. Livingston stated he did not want to base his decision on a small amount of input provided by only 2 residents at the workshop. Bednar stated she had received input from other residents who were unable to attend the workshop due to its early start time. She added that workshops are too early for certain residents with work obligations to attend. Williams suggested a survey could be organized by Clerk’s Office to examine resident’s opinion on improvements at Humphries Park. Bednar stated she feels the residents have made their opinions known and have indicated they are in favor of adding playground equipment. She questioned placing the burden of completing a survey on the Clerk’s Office. Williams stated Survey Monkey takes 10 minutes to compile a survey and added she would be willing to complete it if the Clerk’s Office does not have adequate time. Williams stated she would like to see improvements made to Humphries in the next 8 months. She stated that due to weather conditions, no immediate action could be taken and she would like a survey to be administered. Williams added she feels that as a resident of Lakeland she has not gotten the opportunity to share her perspective. She added she had received input from her constituents indicating they have not expressed their desired input. Williams stated she and her 13-year old son previously used Crocker Park but now were uninterested in doing so because of the alterations to the playground equipment. Bednar stated she feels Williams has had plenty of opportunity to give her opinion on improvements at Humphries Park in multiple settings including workshops, meetings, or by e-mail. She added that none of the equipment that was previously available at Crocker Park was removed. Bednar stated she requested the e-mails or input from Williams regarding the concerns of her constituents and Williams had refused to provide that input. Bednar stated it was unfair that Williams indicated she was not afforded an opportunity to provide input. Glasgow suggested that residents provide input on equipment they would like to see at the park. Bednar stated she was requesting a budget so she could work with residents to determine what equipment could potentially be added. Bednar reiterated she had planned phases of improvements for all the parks. Bednar again stated she was looking for a \$45,000 budget to examine options. Williams stated she would agree with creating a budget as long as the actual spending would come back for approval. Another meeting to allow residents to provide input was suggested by Williams and Glasgow. Livingston stated concern over the way the parks proposal has been handled and is worried the proposal has not been handled in a collegial manner. He added he is uncomfortable with e-mails going back and forth between two Councilmembers without the rest of the Council having any knowledge of it and does not think it is good practice. He added such discussion should take place at the Council level for the purpose of educating the Council on the content of the exchanges. Livingston stated he was not comfortable with setting a not to exceed amount at the current meeting because it was not an agenda item. Williams stated it may cost more the \$45,000 to achieve what the community desires at Humphries and does not want to place an arbitrary limit on it. Williams volunteered to work with Bednar to examine options at Humphries. Bednar stated she would prefer others are present at any meetings. She also stated the overall City Budget will not allow spending to exceed \$45,000 at Humphries. Williams requested that Livingston instruct the Parks Commissioner to set a meeting on the issue. Livingston stated he will not instruct a meeting to take place and that two Councilmembers should work together in collegial fashion to make arrangements. Williams suggested directing the Clerk to post it as a public meeting so residents could attend. Bednar questioned if there was a reason for a formal meeting. White suggested posting in the event that three Councilmembers were present. Williams stated it would not satiate what she has been seeking if it were not a formal meeting. Wallberg stated she is planning on adding announcements section to the new website and will post any future meetings. She added it would be posted in the Stillwater Gazette and in the official posting location outside of City Hall.

12. STAFF REPORT

Attorney – Chris Johnson had nothing to report. Glasgow questioned if legal postings could take place on websites. Johnson stated the legal requirement states postings must be published in the City’s official newspaper. He added that legislation is examining allowing online postings. Williams suggested a Resolution to present to Lakeland’s House Representative in favor of allowing public notices to be published online or on a City website.

City Clerk – Wallberg stated the Recycling Committee has continued to meet. She added that Eureka has joined with Maroney’s Sanitation in examining a single-sort recycling proposal. She is hopeful that a recycling proposal will be

presented for the Council's consideration at the next meeting. She requested confirmation that the Council will meet for a workshop concerning zoning responsibilities on January 25 at 7 a.m. She suggested instituting a dedicated workshop day apart from City Council meetings days as there are a number of items that need discussion. She also added that workshops that take place at 5 p.m. are too early for many residents to attend. She reported that the DNR is requesting a workshop on February 25. She requested Council members check schedules and inform her of availability for the DNR workshop on February 25. Paiement stated he would prefer not to have the Zoning workshop at 7 am on Saturday. Wallberg stated it would be a wise idea to institute a monthly workshop date. Williams stated she is in favor of a dedicated day, outside of the regular meeting day, for a workshop each month. Wallberg suggested possibly using the 4th Tuesday of each month. The Council agreed to move the Zoning workshop to Tuesday, January 28 at 6 p.m. Wallberg stated the Planning Commission meeting will be held on February 11th due to the caucuses taking place on February 4th. She stated there has been problems with packets being delivered in a timely fashion by the Postal Service. She asked that all agenda items and materials be presented by the Monday one week prior to Council Meetings so it is possible distribute packets by the Wednesday one week prior to Council Meetings. The Council agreed that would be reasonable. Livingston requested a memo is provided to the Council confirming workshop dates.

City Engineer – Kline gave an overview of the City Engineering report provided by Parotti.

Public Works Director – Kline stated he attended a DNR meeting in Shoreview regarding the North and East Metro groundwater management plan. He stated the DNR has authority over water usage drawn from high capacity wells. The DNR is concerned about the amount of pumping in North and East Metro, as well as pollution, and presented a plan for future water usage. He stated Lakeland's Water Utility pulls from the Mount Simon Aquifer and is the only City in the Metro that does so. The DNR's management plan is not applicable to Lakeland because of that fact. He stated that residents have improved on-street parking during snow events. He added that residents are still plowing snow from their property across streets onto the opposite side of the road. He stated it has gotten worse due to recent large snowfalls. He reminded residents that it is illegal and can cause damage to the City's snow removal equipment for which they would be responsible. Livingston asked about public notices on plowing policy. Kline stated he has addressed it at multiple meetings and an article was included in the Newsletter. Wallberg suggested it could be added to City Announcements on the website. Williams stated that snow piles have limited visibility at the intersection of 3rd St and St. Croix Trail. Kline stated that the Freedom station has plowed snow into the bank causing the large piles and the responsibility of its removal is unclear. Kline stated he would address the issue with the County.

Treasurer – Niedzwiecki stated he considered the December financials presented to the Council to be preliminary. He added the numbers were very close to being final but estimates were used for items that were not yet complete. He added he went through all the funds and reviewed to ensure that expenses were placed properly. He stated he is estimating a break even for the General Fund. He stated there would be an additional positive balance of \$2,000 in the General Fund for re-classing of engineering expenses related to the Space Variance. He added that he decided to re-class the expenses to the General Fund, and after discussing the item with the Deputy Clerk, charges were moved back to the Applicant Escrow Fund as originally entered. He stated expenses from 2011 and 2012 related to the Space Litigation, previously expensed to the Applicant Escrow Fund, were moved to the Long Term Improvement Audit/Legal Reserve Fund and written off. He added that the current charges associated with the Space Variance application and Grading & Filling permit will be greater than the total escrow collected but are billable to the applicant. He suggested the Clerk's Office send a bill for additional expenses to Mr. Space. He stated there has been a favorable variance over the last couple years in Snow & Ice budget. As a result, some additional money was moved to the vehicle replacement fund. As of the beginning of 2014, the Snow & Ice fund balance is \$36,025, which has to last for 6 months until the next levy payment is received. He stated \$20,000 of the balance has been used for shop rental, which means there is no excess in the fund. The Snow & Ice expense may be a little greater than what is available but it would be covered by the next levy payment. Due to no excess being present, there will be no transfer to the vehicle replacement fund. Williams questioned if Niedzwiecki was able to forecast the Snow & Ice budget based on past years. Niedzwiecki stated the largest increase he has noticed was sand & salt purchased, which may be because of stockpiling. Kline stated that all salt, as opposed to a sand/salt mixture, is being used this year in an attempt to minimize usage. He added a salt bin was constructed behind the City's shop and approximately 10 tons of salt are presently stockpiled at a cost of approximately \$60 per ton. Niedzwiecki added there were larger expenses related to maintenance of the snowplow trucks than in years past. He stated there is currently \$115,236 in Vehicle Replacement reserve. He intends to discuss Plow Truck replacement with Kline at a later time and will present his findings to the Council after further examination. He stated the Water Utility Fund is presently in good standing but that can change quickly due to being a heavy infrastructure and capital intensive venture. He explained the 5%

performance clause for building inspections and stated Lakeland Shores and Lake St. Croix Beach will receive it for 2013. He added the Building Inspection Fund has approximately \$88,000. He stated the 90% TIF distributions were made to Lakeland Village and Commercial Management. He stated grant money was received from the Washington Conservation District for the project at Lakeland Beach and the project has now been closed out. He stated there is currently \$14,033 available for bike trail improvement and the last time the bike trail had budgeted funds was in 2008. The City received 2nd half of LGA which went into budget contingency fund. Lastly, he stated the current balance of the Cable Fund is \$28,000.

Zoning – None.

13. **COUNCIL MEMBER REPORT/** Bednar had no report.
14. **COUNCIL MEMBER REPORT/** Glasgow reported the Cable Commission will be disbursing \$27,338.04 to the Cities which will likely take place the first Wednesday in February. He stated Lakeland's share is generally 40% of the total disbursement. He attempted to contact the Attorneys representing Comcast regarding the upcoming franchise agreement but no response was received. He stated he liked the reports provided by the City Clerk and City Engineer and would like them to continue. He added he was unsure if the Alliance would meet in January due to a lack of Agenda items.
15. **COUNCIL MEMBER REPORT/** Williams reported she attended a meeting with Mayor Guliani, County Commissioner Weik, members of the House of Representatives and Lobbyists discussing strategies for the upcoming legislative session regarding securing funding for the Gateway Corridor Commission. She attended the Fire Department appreciation dinner. She closed with a reminder the Precinct Caucuses would take place in two weeks.
16. **COUNCIL MEMBER REPORT/** Paiement stated the Personnel Committee met with the Public Works Director regarding the performance review for Rick Regnier. The Committee is recommending a \$.51 per hour raise, or \$1,060 per year, which represents a 3% wage increase, effective Jan. 1 2014. **M/S/P(Paiement/Livingston) to approve the Personnel Committee recommendation of a \$.51 per hour wage increase for Rick Regnier, effective January 1, 2014.** The Council stated satisfaction with the quality of work Rick Regnier has performed. **Passed Unanimously.**
17. **MAYOR'S REPORT/** Livingston stated he struggled with some of the appointments but was pleased overall. He stated Amy Williams would now be the prime Gateway Corridor Commission representative. He finished with stating he believes a new landscaping committee on landscaping focused on outdoor beautification is close to forming.
18. **ADJOURN – M/S/P(Williams/Paiement) to adjourn meeting at 8:47 p.m. Passed unanimously.**

Robert Livingston, Mayor

Steve Iverson, Deputy Clerk/Recorder