

CITY COUNCIL MEETING
Tuesday, June 18, 2013

CITY COUNCIL PRESENT: Bob Livingston, Amy Williams, Richard Glasgow, Asia Bednar, Joe Paiement
STAFF PRESENT: Matt Kline, Chris Wallberg, Tom Niedzwiecki, Steve Iverson, Ron Moose, Chris Johnson
OTHERS PRESENT: Leah Stanton, Chris White, Diane Wirth, Mike Quinn, Kathleen Quinn, Molly Shodeen

1. **CALL TO ORDER** by Mayor Livingston at 6:01 p.m.
2. **PLEDGE OF ALLEGIENCE** was recited.
3. **CONSENT AGENDA – M/S/P(Glasgow/Williams) to approve items A through F of the Consent Agenda. Passed Unanimously.**
 - A. Minutes of the May 21, 2013 Regular City Council Meeting
 - B. Treasurer's Report
 - C. Bills to be Approved
 - D. Resolution approving change of designees for State of Minnesota JPA on behalf of its Attorney and Law Enforcement
 - E. Resolution approving Master Subscriber Agreement for Minnesota Court Date Services And Amendment for First Appearance Support Track (FAST) access
 - F. Resolution approving Master Subscriber Agreement for Minnesota Court Data Services And a FAST Access Subscriber Amendment for Washington County Pilot Program
4. **LAW ENFORCEMENT REPORT-** Williams deferred the report until a Sheriff's Deputy was present.
5. **PETITIONS TO THE COUNCIL – None.**
6. **VARIANCE APPLICATION / Michael & Kathlenn Quinn to build a new home -** Moose gave an overview of the application which included removing the existing house, garage, and shed to be followed with constructing a new house with an attached garage. He stated the existing house is a one story walkout located 8.7 feet from the bluff line; the existing garage is a detached two car garage located 21.2 feet from the bluff line; the existing shed is 5.6 feet from the bluff line. The proposed house is a two story walkout with a 3 stall attached garage and sun room. He stated the proposed house is to be set back 14.4 feet from the bluff line and the garage would be set back 5 feet from the bluff line due to the contour of the bluff line. The proposed house is 6 feet greater in height at the front elevation and 8 feet greater at the shoreline elevation. He stated there were 4 variances being requested: 1) To build the attached garage within 5 feet of the side yard property line versus the required 10 foot setback. 2) To build the house within 14.4 feet of the bluff line, and the attached garage within 5 feet of the bluff line, versus the required 40 foot setback. 3) To build within 29.8 feet of the front lot line versus the required 30 foot setback. 4) To allow the height of the proposed structure to be 8 feet taller than the existing structure from the shoreline. He stated a septic system had been recently constructed in the front yard which limited the distance the home was able to be moved away from the bluff line. He stated the Planning Commission had held a public hearing on June 11th and had recommended accepting all the requested variances with the exception of allowing the height of the proposed structure to be greater than the existing structure. The Planning Commission was in agreeance with Molly Shodeen of the DNR, who recommended a one story walk out with the living area expanded to the South, as opposed to raising the height. There was discussion regarding the impervious surface coverage of the proposed plan and the potential effects of expanding the footprint if the height variance was denied. Moose stated there was significant room to expand the impervious coverage given the current plan is 15.1% while the maximum amount allowed is 20%. Paiement introduced conversation regarding a variance that was applied for by the Hubbard's in which he recalled the allowed maximum height of the replacement structure was 35 feet and the height of the replacement structure was also greater than the existing structure. Moose stated the 35 foot maximum height is for properties that conform to all other ordinances, specifically set backs from the bluff line; ordinance does not allow the height of the replacement structure to be greater than the existing structure. Paiement stated he is not comfortable with denying the variance request based on the previous variance that was granted to the Hubbard's and would like more information; he does not see a difference and thinks there should be consistency. Moose stated that Molly Shodeen of the DNR was very concerned about allowing the height to be raised because the proposed structure is so close to the bluffline, and is less than half of the allowed setback; she didn't recall any homes this close to the bluff line that were allowed to be

raised but may have allowed height variance on homes that were closer to the allowed setback. There was discussion regarding modifying the plans to one story house and the proposed homeowners reaction to this suggestion. Wirth stated that, since the Hubbard variance was granted, litigation had taken place addressing the criteria to grant variances; she continued to share the 3 factors stated in the hardship laws required to be taken into consideration when reviewing a proposed ordinance variance: 1) The property owner is proposing to use the property in reasonable manner. 2) The hardship is due to circumstances unique to property type not caused by the owner. 3) The variance will not alter the character of the locality; this criteria has been put into place after the Hubbard's variance request; the Planning Commission unanimously voted that all requests meet the criteria with the exception of raising the height. Attorney Johnson explained the interpretation of the law, how it has changed and how it effects granting variances; legislature adopted the practical difficulties standard; stated that in a case where two ordinances could be applicable that it would be appropriate to use the more restrictive of the two. Mike and Kathleen Quinn introduced themselves and their proposed plans; stated the plan features a prairie style home with low pitch roof lines and earth tone colors; do not desire to disturb the property by expanding the footprint and consciously worked to avoid expansion; it was important to them that no trees were removed; the current home does not fit the family's needs and is very obtrusive to the bluff; they have no alternative plans at the time being and a one story walkout would not afford them the space they are seeking; have been cooperative thus far and are willing to compromise on their plans; they want to have the project be a success and are eager to become a part of the community. It was stated that the current home is 29.5 feet tall and that falls within the maximum height ordinance allowing 35 feet. Glasgow stated he was torn given that other homes can be seen from river and he feels disturbing the bluff would cause more damage. Williams stated that she felt the variance passed the 3 standards for practical difficulties. Moose reiterated that Shodeen's concerns stemmed from the fact that this particular house is very close to bluff and other comparable two storie homes were significantly further from the bluff. Williams stated her primary concern on Quixote Avenue is impervious surface coverage and drainage related issues. Moose stated the Water Management Organization did an extensive review of potential drainage issues for the proposed plan; would require a new review for any amended plans. There was discussion confirming that the variance was to raise the height of the roof from the existing height; variance request did not pertain to the number of stories of the proposed home. White discussed the possibility of instituting a flat roof into the proposed plan. Glasgow noted he views southern expansion of the footprint as a problem; feels the variance requests meet all 3 practical difficulties requirements; inclined to approve the variances. Livingston discussed the Hubbard case, the outcome of the decision, and the effect of the decision on the authority of the DNR. White stated that the decision should not be due to the approval of the DNR but rather Lakeland's ordinances; it was unanimously agreed upon by the Planning Commission that the land was not causing the height of the proposed home to be raised; asked that the standard difficulties standards be closely reviewed before any decision is made. Bednar stated that she felt the hardship was due to circumstances unique to the property because expanding the footprint would disturb the bluff; raising the roof height would not disturb the bluff; stated that the character of the house is a concern for her. Livingston stated there are varied types of homes located in the area so the character of the locality would not be disturbed. There was discussion regarding whether the practical difficulties standard was subject to the Council's interpretation; was determined it is. It was noted that only a resolution for denial was included in the packet and stated that a resolution for approval could be drafted at a later time. Livingston stated that if the Planning Commission is overturned, it must be done with great care. Wirth asked that the Council please be thoughtful of their obligation to uphold the state laws and ordinances of Lakeland; stated concern over picking and choosing which variances to approve. Williams stated she felt that the circumstances unique to property restriction was met due to the presence of the river and bluff line; impervious surface coverage along with not disturbing the bluff line are major concerns for her; feels it's in the best interest to raise the height as opposed to expanding the footprint. There was discussion regarding whether the height ordinance restrictions were applicable to all city districts; stated it was applicable only to the St. Croix River District. White asked that the Council does not make assumptions on impervious surface impacts without further information; stated Shodeen expressed comfort with expanding the footprint; noted the desire to have guidelines and reasoning behind the current decision very clearly laid out for future reference. There was an informal show of hands; all Council Members indicated they were in favor of approving all four variance requests. Molly Shodeen stated the DNR is against allowing the height to be raised and increasing massing on the bluff line; visibility from river is a major concern; feels that expanding the footprint would be a better option and that there are alternatives to the proposed plan. **M/S/P(Paiement/Glasgow) to adopt Resolution 2013-14 which grants 4 variance requests for replacement of the home at 641 Quixote Ave North including the stated conditions, and authorize the Mayor and City Clerk to execute the resolution. Roll Call – Paiement, Bednar, Glasgow, Williams, and Livingston voted aye. Resolution adopted.**

- 7. EQUIPMENT TO STREAM CITY MEETINGS** - Glasgow stated he desired to bring the city's use of technology up to current standards and there are many different options to accomplish that goal. He stated he preferred not to use immediate live streaming and would like to have meetings uploaded to the internet for online viewing by the following

morning. He stated he is currently using a website called Vimeo.com which allows videos to be uploaded to a unique IP address for the cost of \$199 per year. This would allow residents to access current and past City Council meetings. There was discussion regarding having the cable company provide streaming services; this service is currently not available and it is anticipated that once available it will be very cost prohibitive. Williams stated she doesn't want to burden City Staff with additional tasks; said that as a subscriber to DirecTV she currently has no means of viewing of meetings and sees adding online streaming as beneficial to residents. Glasgow also noted that public hearings could be streamed; thinks the Council can improve on overall communication with residents. Livingston stated he was in favor of pursuing streaming and requested that Glasgow present potential options at the next Council meeting.

8. STAFF REPORT

Attorney – Johnson stated that a memo was provided by Attorney Snyder outlining the City's continued litigation. Johnson stated he provided a memo detailing when it is appropriate to utilize closed executive session. He stated the agreement that was necessary for prosecution matters to go paperless had been signed.

City Clerk – Wallberg stated that the Clerk's office is currently working on technology matters and are attempting to move forward. She stated she would like to receive agenda items one week prior to Council Meetings and has established a Wednesday deadline. There was discussion regarding how Agenda items were to be proposed to the Mayor.

City Engineer – None.

Public Works Director – Kline stated that pothole repair was ongoing; there are various inch deep potholes at many intersections; has received an estimate for spray patching. He explained the process of spray patching and noted the expected cost is \$5000 which is within the budget; will be moving forward with having spray patching completed. He reported that he had received bids for the re-roofing of Water Plant #2 which had also already been budgeted for and will be moving forward with that as well. He noted he will be meeting with residents of Quixote Avenue to discuss any potential suggested solutions for the ongoing drainage issues. He stated the beach will be open when the water level drops below 680 feet.

Treasurer – Niedzwiecki stated that a significant item paid in the current financial cycle was \$15,760 for liability and property insurance, which was equal to the previous year. He reported the total City Cleanup Day expense was \$1,472 which was less than the previous year and also came in below budget. He stated that the current budget items being closely watched include legal and engineering expenses, which are currently projected to be over budget, mainly due to the ongoing litigation. He stated that the Quinn's would likely require another escrow payment for their variance application; the City Planner will be providing detailed expenses in relation to the application. He stated the Public Works garage rent was paid for the second half 2013 and the initial payment for the new Ford F450 truck was made. He stated that currently the budget as a whole was on track. He reported that he took a very preliminary look at 2014 budget; Public Works figures were not changed due not discussing potential changes with the Public Works Director; he updated the figures for the Lower St. Croix Valley Fire District. The current draft proposes a 1.2% increase in expenses in the general fund and 3.1% increase in levy; this is due to no budget contingency transfer, no LGA, and an overall increase in expenses of \$6,500. Livingston would like a rough estimate including internal input to be presented in July. Niedzwiecki stated that LGA is expected to increase in the upcoming year and he will prepare a budget proposal that focuses on expenses.

Zoning Administrator– None.

9. COUNCIL MEMBER REPORT/ Bednar stated she presented the Lakeland park/beach rental memo to the Planning Commission at the June 11, 2013 meeting. She stated a major point of emphasis was the consumption of alcohol; is seeking Council input and opinions on the matter. Livingston recommended placing it on the next agenda for further discussion. There was discussion regarding the bike trail running under the I-94 bridge. She stated she had contact with a concerned resident regarding the playground equipment at Humphrey's park. She noted she will be meeting with a playground equipment representative to discuss potential purchases. Livingston stated that the representatives were often helpful in finding manufacturer rebates; would prefer to see competitive quotes for the new equipment. Bednar stated she will contact other representatives to obtain quotes. There was discussion regarding a safety issue with a slide at Humphrey's park.

10. COUNCIL MEMBER REPORT/ Glasgow reported he attended the fire board meeting; Lakeland had 13 calls in May and there was a total of 42 calls; the LSCV Fire budget was completed and provided to the cities; there was an overall 1.26% increase in the budget; Lakeland's cost per capita ranked #4 of the 5 cities at \$57.80 and \$152.43 per household. He noted an Alliance meeting will be taking place with a speaker from the Met Council who will be addressing septic systems. He stated his desire to have a more in depth description on the Aggregate Industries brush site in the newsletter. There was discussion regarding adding a section referencing River City Services as an alternative dumping site for residents. Williams stated she would prefer the newsletter stated that the service from Aggregate Industries is free. Livingston stated he would like to see a more cohesive communications policy; would also like to see this considered when completing the 2014 budget.

11. COUNCIL MEMBER REPORT/ Paiement stated that the Personnel Committee had a meeting. He noted it was proposed to make Steve Iverson the Deputy Clerk and the Personnel Committee is recommending doing so. He added that this would be strictly a change in title and would there would be no changes in responsibilities or compensation considerations. Johnson suggested a motion was necessary to approve the City Clerk's nomination. Wallberg nominated Steve Iverson to be the Deputy Clerk for the City of Lakeland with the understanding that it would not have an effect on workload, compensation, or job responsibility. [Formal Motion placed on Consent Agenda for July 2013 City Council Meeting] **Passed unanimously.** He stated he will delay addressing Chris Wallberg's evaluation until next month for further discussion due to not arriving at a concensus among the Personnel Committee.

12. COUNCIL MEMBER REPORT/ Williams reported she attended a Gateway Corridor Commission meeting on June 13th and they are seeking candidates to serve on the Community Advisory committee. She stated Afton Strawberry Festival will be taking place the following weekend. She noted she spoke with Niedzwiecki regarding forming a standing finance committee and will seek to address it formally at a future meeting. She will be attending a workshop regarding the health of the St. Croix River on July 17th sponsored by the St. Croix River Foundation. She stated that there were 102 calls reported for the month of May which is up from the previous month but many of the calls were benign in nature.

13. MAYOR'S REPORT/ Livingston requested that Glasgow address the aforementioned newsletter items in the upcoming newsletter's Perspective section. He reported that there is currently a transition in Yellow Ribbon due to the number of deployed families being lesser than in previous times; new officers including the President and Vice President were also elected.

14. ADJOURN – M/S/P (Williams/Bednar) to adjourn the meeting at 7:47. Passed unanimously.



Robert Livingston, Mayor



Steven Iverson, Deputy Clerk/Recorder