

CITY COUNCIL MEETING
Tuesday, July 15, 2014

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

STAFF PRESENT: Chris Wallberg, Matt Kline, Steve Iverson, Tom Niedzwiecki, Chris Johnson

OTHERS PRESENT: Leah Stanton, Chris White, Elizabeth Dahlin Nustvold, Daniel Nustvold, Deputy Sullivan

1. **CALL TO ORDER** by Mayor Livingston at 6:03 p.m.
2. **PLEDGE OF ALLEGIENCE** *was recited.*
3. **CONSENT AGENDA** – Williams requested to have Consent Agenda item A pulled. **M/S/P (Glasgow/Williams) to approve the Consent Agenda items B, C and D. Passed Unanimously.** A resolution appointing Election Judges for the 2014 election was included on the June 17, 2014 Consent Agenda; Williams requested to have the names of election judges added to the minutes as opposed to being present on the resolution only; there was no objection to her request. **M/S/P (Williams/Glasgow) to approve Consent Agenda item A as amended to include the names of 2014 Election Judges. Passed Unanimously.**
 - A. Minutes of the June 17, 2014 Regular City Council meeting
 - B. Treasurer's Report
 - C. Bills to be Approved
 - D. AFP No. 1 / 2014 Crack Sealing Street Improvements to Precision Sealcoating, Inc. in the amount of \$13,395.00
4. **LAW ENFORCEMENT REPORT** – Williams yielded her report to Deputy Sullivan. Deputy Sullivan stated the previous month was high in activity. He reported there were individuals apprehended for vehicle thefts. He added there are still vehicle thefts taking place. He reminded residents to stay vigilant in efforts to inform Deputies of suspicious activity. He stated the two suspects that were apprehended based on a call from a resident. He stated the thefts are taking place in unlocked cars with no forced entry.
5. **PETITIONS TO THE COUNCIL** – None.
6. **VARIANCE APPLICATION / Elizabeth Dahlin Nustvold & Daniel Nustvold to construct a porch at 1121 Quentin Avenue South** – Wallberg introduced the application for variance. The variance would allow the proposed porch addition to be located 32 feet from the bluff line, expand the roofline of the existing building and increase the area that is encroaching into the bluff line setback. The proposed addition does not increase the need for variance, as the home is already located within the setback. Wallberg stated a proposed resolution included in the meeting materials presents findings of fact and conditions of approval indicated by the WMO, DNR and City Engineer. She stated the Planning Commission conducted a public hearing on July 1, 2014 and requirements were met; the PC recommended approving all three variances. Beth Dahlin Nustvold and Dan Nustvold, 1121 Quentin Ave South, introduced themselves and stated they would like to build a small screen porch. Johnson suggested an amendment to number seven in the findings of fact. After the amendment the find of fact would read, "The property owners' problem is due to circumstances unique to the property not caused by them, the proposed structure will not encroach farther into the bluff line setback than the pre-existing structure. **M/S/P (Williams/Glasgow) to adopt Resolution 2014-09 with the amendment recommended by legal counsel, approving the application by Elizabeth and Daniel Nustvold for variances to allow a screen porch to be constructed east of the existing home at 1121 Quentin Avenue South; to allow the porch addition to be located 32' from the bluff line; to expand the roofline on the existing substandard structure; and to increase the area encroaching into the bluff line setback.** There was discussion about condition of approval item number five regarding maintenance of the rain garden to be installed; the homeowners confirmed they would maintain the rain garden; the WMO will provide guidance with maintenance. **Passed Unanimously.**
7. **STAFF REPORT**

Attorney – Johnson stated he provided a memo regarding a recent decision reached by a District Court Judge. The decision concerned declaring the code of Federal regulations unconstitutional as it relates to interstate travel, specifically the annual inspections of commercial vehicles. He added that the decision was incorrect in the opinion of

Johnson/Turner. He stated it was strongly suggested and the preference of Johnson/Turner to appeal the decision; State Troopers are strongly in favor of an appeal. He stated he was seeking the opinion of the Council on this matter due to the costs involved, despite the fact that they normally would not defer to elected officials in prosecutorial matters. He added that the ability to regulate interstate traffic is well established. He read an e-mail from State Trooper John Olson into the record, which stated the decision could negatively alter the ability to enforce Federal law [Document on file with City Clerk]. He stated the estimated cost of the appeal is \$3,000 to \$6,000. He welcomed questions and requested feedback from the Council. He stated on one hand it is important to support the requests of Law Enforcement and on the other hand it is one decision by a District Court Judge that may, or may not, have significant effect. He added that State Troopers are now unsure of their ability to enforce interstate travel laws, and have requested to have the decision appealed. Paiement stated there are likely many organizations with interest in the subject, including the Attorney General's office, who could likely appeal the decision. Johnson confirmed that Johnson/Turner is working with the Attorney General in the hope they will appeal, but it had yet to be determined; the deadline for appeal was on Friday, July 18. Paiement stated he believes it would not be in the best interest of the City to get involved, from a financial standpoint, if other agencies would be appealing. Williams stated she is pleased with the decision, as she is a small business owner who feels commercial vehicle inspections are intrusive. As such, she would adamantly oppose supporting an appeal of the decision. Johnson stated the decision does not carry precedential value but affects Trooper's ability to enforce the law. Williams stated she is not comfortable spending a large amount of money on something that would not directly positively affect residents. Paiement agreed that it would not be a good use of City funds. Glasgow stated he would abstain from voting. Bednar stated she would like more information on the issue; she does not believe it is safe to travel near semi-trucks that have not been regularly inspected. Johnson stated he would pass along the sentiments of the Council to the City Prosecutor and again emphasized that the City Council usually is not involved in prosecutorial decisions. Glasgow requested an update on review of the Comcast franchise agreement. Johnson provided an update on the burnt home at 1243 Rivercrest Road.

City Clerk – Wallberg stated multiple residents who are concerned about the increased deer population in Lakeland contacted her. She requested feedback from the Council on whether addressing the deer issue should be pursued. Glasgow stated he is against shooting in town, and would like to see them chased away. Chris White, 311 Queenan Avenue South, stated she has seen an unbelievable increase in the deer population over the last 3 years; lived here for nearly 40 years and it is the worst it has been; deer are eating anything and everything; are becoming tame and fearless; believes a hunt is necessary. Kline stated that Hudson has an organized bow hunt for deer in the City. Williams stated her neighbor feeds the deer and did not wish to encounter problems with hunting deer near a feeding area. There was discussion regarding where the hunt would take place. It was stated it would be necessary to work with the DNR to organize the hunt. Kline stated there is an organization that performs hunts in multiple cities, and there is a large amount of criteria that to be met. Williams stated she would be open to consideration of a hunt and would like more information presented. Glasgow stated he would like to pursue other avenues before a hunt; suggested requesting input from residents in the newsletter. The Council agreed they would like to have more information presented. Livingston stated he would prefer to have the DNR organize the hunt. A website survey regarding a hunt was discussed and Johnson advised against it as State law prohibits certain referendums. Wallberg stated a letter was sent to the family of the owner of 1243 Rivercrest Road North giving them the opportunity to bring the property into compliance within 30 days; she will provide updates as available.

Public Works Director – Kline stated the beach road would have debris cleared as soon as it dried; he added the ditches would be re-graded due to filling with silt. He stated the beach would be open soon; the beach parking lot held up well through flooding; needs a small amount of class 5 re-grading. He stated FEMA would be in Washington County to assess damages due to flooding; Washington County met the threshold for funding; Lakeland requested funds and will find out if funds will be received. He stated some of the recent plantings in the parking lot washed away. He added the river level is 681.5 so the beach remains under water but the parking lot is not. He stated there is a large backlog of work due to wet weather causing an increase in mowing. He stated there are washouts on the side of roads and potholes that need to be addressed. He stated there is a fair amount of comp time built up from winter. Kline stated the remaining wood chips were moved from the parking lot into the play areas at Humphries Park. They wood chips were not spread and Kline stated any volunteers could spread the chips if they desired. White stated volunteers must be supervised for insurance purposes. Kline informed residents to contact himself or Councilmember Bednar if they desired to volunteer.

Treasurer – Niedzwiecki reported Lakeland received the 2014 first half property taxes. He added there was a reversal of past taxes due to a revaluation of Lakeland Village. The reversal included \$3,700 of general property taxes, \$9,000 in fiscal disparity and \$16,000 in TIF. He stated he was aware of an outstanding tax petition but was

unaware of any outcome. He stated it came as a surprise as the City did not receive any notification of the ruling. He stated he was not concerned with the TIF adjustment as it is a pass through. The general property taxes and fiscal disparity are a direct hit to the City and there is no way to recoup the funds. It was stated that the reversal is from 2011 and 2012 taxes. Niedzwiecki voiced concern over the lack of communication regarding the issue. Staff will be contacting the County to obtain further information regarding the reversal. Council requested to be informed of current tax petitions that could potentially affect future budgeting. Niedzwiecki asked for input regarding which fund should be used for the Humphries Park light pole installation. He stated it was unclear during the initial expenditure approval how the light would be funded. He stated capital improvement for parks generally are drawn from the Special Parks Fund. Williams stated she believed the light was supposed to be funded from Special Parks. There was discussion regarding General Fund Street Lighting line item and how the funds are used. Niedzwiecki stated the Street Lighting line item is used for the operation of Streetlights, not installation. He added that he believes the Special Parks Fund should fund the light installation. Bednar stated she would examine her notes to determine where funding should come from. Niedzwiecki requested the Council determine what fund should be used for the installation and inform him so the item could be included with the July financials.

Zoning – None.

8. **COUNCIL MEMBER REPORT/** Glasgow reported he attended a LSCVFD Meeting; there were 37 total calls in June; 10 calls in Lakeland. He added the LSCVFD is attempting to obtain a grant to hire a full time firefighter. He stated he attended the Alliance meeting and the bike trail was discussed. He reported he attended a Cable Commission meeting at which the franchise agreement was approved; awaiting approval from attorney; stipulated free internet for City Halls & Fire Department in the agreement; approved quarterly payments for the rest of year. There was discussion regarding the playground memorial for Zach Sobiech. There was discussion regarding which Council member would address creating the memorial. There was discussion on whether a public hearing would be necessary to name the playground. Livingston stated the item could be placed on the August agenda for discussion. There was discussion regarding fluoride in City water and Kline indicated including fluoride in the water supply is a State mandate.
9. **COUNCIL MEMBER REPORT/** Williams reported she traveled to California with the Gateway Corridor Commission on June 25 to view the Orange Line. The Orange Line is similar to the Gateway proposal for bus rapid transit. She explained the differences between the Gateway proposal and the Orange Line. She attended a Gateway Policy Advisory Committee, Community Advisory Committee and a Commission meeting. White questioned if the Bus Rapid Transit would travel past Manning Avenue. Williams would like it to travel past Manning but that would require feeder networks since there is a dedicated guide way.
10. **COUNCIL MEMBER REPORT/** Paiement reported a Personnel Committee meeting took place and there was request to review the pending workload in the Clerk's Office. The Personnel Committee will meet again to address the issue. He stated there might be a request to increase staff hours. He added the Personnel Committee would make a recommendation at the August meeting and would like the item to be on the agenda. He stated he would like to have budget and levy on August agenda. He would like to keep the budget at or below the 2014, budget and he voiced concern about increasing budget. The Council agreed to have a workshop concerning the budget prior to the August City Council meeting. Paiement stated he does not want any increase in the budget. Glasgow stated he would not be in favor of any budget increase greater than 1%.
11. **COUNCIL MEMBER REPORT/** Bednar stated she is happy the mulch was installed at Humphries. She reported she has some items for the Public Works department to address at the parks and beach. She stated she is still waiting to hear from Bob Craggs concerning the bike trail.
12. **MAYOR'S REPORT/** Livingston reported he has continued to battle health concerns. He continues to speak with the City Clerk. He stated his energy is coming back and he hopes to be fully recovered soon.
13. **ADJOURN – M/S/P (Williams/Glasgow) to adjourn meeting at 7:11 p.m. Passed unanimously.**

Bob Livingston, Mayor

Steve Iverson, Deputy Clerk/Recorder