

**CITY COUNCIL MEETING**  
**September 18, 2007**

**COUNCIL MEMBERS PRESENT:** Robert Craggs, Richard Glasgow, Peg Larsen, Robert Livingston, Brian Zeller

**PLANNING COMMISSION PRESENT:** Chris White, Diane Wirth, Kevin Witt

**STAFF PRESENT:** Mark Nagel, Tom Niedzwiecki, Nick Vivian, Chris Wallberg

**OTHERS PRESENT:** Eric Atkinson, Al Bergevin, Connie Bettenhausen, Larry Bettenhausen, Brett Billmeyer, Julie Bunn, Laura Eastman, Andy Ellickson, Brent Ellwanger, Randy Kopesky, Reggie Kopesky, Zach Lund, Rick Peterson, Mary Pulse, Greg Rinzel, John Shilts, Dan Starry, Marv Stutz, Geoff Willens, Craig Wollery

Law Enforcement Appreciation – 6:00 p.m.

Certificates of Appreciation were presented to twelve law enforcement departments who responded and provided assistance with an incident involving a felony in Lakeland on August 24, 2007.

1. **CALL TO ORDER** by Mayor Zeller at 7:01 p.m.
2. **PLEDGE OF ALLEGIANCE** was said.
3. **CONSENT AGENDA – M/S/P (Craggs/Larsen) to approve the Consent Agenda as presented. By roll call, Craggs, Glasgow, Larsen, Livingston, and Zeller voted aye. Resolution 2007-21 adopted, and Consent Agenda passed unanimously.**
  - A. **Minutes of the July 17, 2007 Regular City Council meeting**
  - B. **Treasurer's Report**
  - C. **Bills to be Approved**
  - D. **Resolution No. 2007-21 - Suspending the Application of Boat Trailer Parking Regulations for Saturday, September 22, 2007 for Beanie's River Rats Fishing Contest**
  - E. **Application for Payment No. 1 for 2007 Street Improvements to Tower Asphalt, Inc. in the amount of \$188,750.02**
4. **PUBLIC SAFETY REPORT**  
Livingston reported 117 calls for service and 41 citations issued during August.
5. **PETITIONS TO THE COUNCIL** - none
6. **TAX INCREMENT FINANCING** – see Agenda Item 7a below

**6a. ADMINISTRATIVE CONSULTANT REPORT** – refer to Agenda Item 8 below

Resident of 1109 Quixote [Space] expressed interest /concern in road that leads down to City Beach; Parotti and he put together numbers as part of beach restoration; pretty firm price give-or-take engineering costs; will contact resident to set something up.

Consulting Planner. Consulting planner interviews will be with Personnel Committee September 20 at 4:00 p.m.; three firms to interview: Northwest Associate Consultants, Dahlgren, Shardlow, and Uban – Bonestroo, and SRF; asked them to send people who will be dealing with the City, so Personnel Committee can meet actual planner; budgeted \$4,000; intends the Committee will make recommendation and some type of agreement or contract can be presented in October; if approved, Staff will evaluate more complex applications where it would be beneficial to have third party recommendation. Craggs asked Nagel that once selecting, or recommending a selection, that the firm would have hourly rates they would approve; would essentially sign an agreement CC supports this that says in a sense they are putting in a retainer whereby they would have discretion to contract them when they see appropriate; would be approving an hourly rate; advantageous that firms have clarified what they are asking; ultimately making commitment. Nagel said hourly rate \$90-95/hour, and they would understand it would be hourly as needed.

Escrow Policy. Nagel continued in conjunction with City Attorney's memo, fees on low side for cities Lakeland's size, but good start; in an escrow, they ask them to put more in the escrow once it runs out; based on that, he would rather start low than high and thinks fees reasonable; need motion to establish escrow policy; fees would have to be approved through resolution; no reason to assign them now because they don't have applications at this point. Niedzwiecki clarified these escrows are in addition to their fee schedule; at this time they are not proposing change in their fee schedule. Nagel said it would be included in fee ordinance when they get to it later this year. City Attorney thinks most cities listed or identified in memo also charge a per lot additional escrow; will have to go back and recheck, but it is not uncommon to pay an additional fee for each lot developed; that will be included in escrows as proposed; thinks what Nagel is requesting

is approval to establish escrow policy; in all reality, escrow fees have to be adopted by ordinance and will be adopted when they revisit fee schedule which they do on an annual basis in December; approval they are looking for is to move forward to include escrows in that ordinance as they work toward putting that together for December meeting.

**M/S/P (Craggs/Livingston) to approve establishing an Escrow Policy - fees for which will be included in City Ordinance.** Craggs asked City Attorney when looking at other city municipalities that all variances are created the same; seems to him they have some variances that are administrative, some that won't take a significant amount of time; looks like there are sliding scales used. City Attorney said there are; generally cities that make a distinction make that distinction between residential and commercial variances; they can also do that; can also make argument that if they are talking about an area variance, it is different from a use variance; in all reality, he would rather say that what is set on escrow is refundable anyway; recommendation to make it reasonable, have it applied to all variances so they don't have deviation at least to start, and then if they find need that either they are refunding applicants the vast majority of their escrow or they are not collecting enough, that they make the adjustment at that point. **Craggs, Livingston, Glasgow, Larsen, and Zeller voted aye. Passed unanimously.**

Lakeland Beach Grant Application. Lakeland Beach grant application was completed and sent; doesn't commit City to anything; once they have it, basically grant covers plant material, finishing up stump removal, and taking out some of the trees that should have been removed with the original contract this summer and replacing with some plant material; some other things that Craggs, Zeller, Gilles, Parotti, and he have to talk about include rip wrap and what that is going to look like, do they want to pave the road going in, do they want to pave parking lot, and other decisions they need to get back to them as a result of this grant application; thinks total amount they have to put forward is \$1,000 cash; should get response by end of year according to Melissa [MNWCD]; feels based on application, they have favorable chance of getting it; thinks everyone agrees it is time to clean beach up, make it look nice; would like authorization for submitting grant application; can always pull if CC wishes, but they had to get it in by deadline.

**M/S/P (Zeller/Craggs) to authorize submission of the grant application for the Lakeland Beach restoration.** Craggs also requested clarification in terms of dollar amount. Nagel verified basically total amount \$20,000 with \$6,000 required in match. Zeller said they currently have a specific line item for beach with balance in excess of \$22,000; as they are looking at their draft budget for years going forward and making commitment to the Parks, he personally considers beach to be their fourth park; this is an item that has been carrying over for number of years. Livingston asked if any advantage to the City or residents by officially making the beach a park. Nagel said they had talked about that; in terms of grants, it doesn't make a difference; something they need to talk about and one of the subjects that Craggs and he need to go through with Melissa as well. Zeller informed Craggs is working with Nagel's assistance on a plan for the Parks as a whole; aware of a situation that required law enforcement and their hands were tied; someone was driving across the beach; they didn't have an ordinance they could reference to issue a ticket for it; do have language that protects their bike trail as well as their parks from that but nothing that protects beach. Nagel doesn't think bad idea; he and Craggs have talked about a Park Advisory Board or Park's Commission. **Craggs, Larsen, Glasgow, Livingston, and Zeller voted aye. Passed unanimously.**

Building Inspection Services. Nagel advised Mayor and he met regarding building inspector; contract they have references office hours Monday and Thursday from 8 to 10; that hasn't been happening on a regular basis; no notification of his going on vacation; met with Bayport City Administrator, building inspector, and Gilles and he thinks they have it straightened out; building inspector will and has been on time for office hours; basically he had been opening up the office; if someone was late, he was late getting to Lakeland; Bayport adjusted their office hours simply having someone come in at 7:45 so he can get down here by 8:00; thinks pretty reasonable, as he is here only two days a week for a total of four hours; will get his vacation and days off in advance so as to notify Lakeland residents in a timely manner, at least a month in advance published in newsletter; will continue to evaluate contract, but based on what was told by Bayport, they really want to keep City's business. Zeller said he has been working with inspector on consumer end of things; found him to be very firm, fair, and timely for his inspections. Livingston wants to make sure they are clear that they have a contract with Bayport, not with the individual; much talk around individual has constantly been made; reason for it is with his employer; concurs with mayor on his qualifications and abilities.

Quixote Avenue Runoff Project. Quixote Avenue Runoff Project has been on back burner; Gilles and he met with SEH last Wednesday and discussed completion of studies; their estimate of two options proposed somewhere near \$200,000; SEH came up with a third option that would be less, but still expensive; study will be done early November, and they will likely get back to CC in November; Staff will, or has already conveyed their progress to the interested parties; thanks to Brad Wasniek (SEH) who has done a good job of going through why they have to do things the way they are doing them and why it costs them money; did very nice job of providing different options that will cost less by use of combination of the two options. Zeller noted Nagel and he had opportunity to look at project; understands one of the neighbors had done a significant amount of repair, so it didn't show signs of major disruption that he anticipated; having extremely hard time looking at Afton-Lakeland Gully that is monument of a ravine and looking at the damage associated and associated expense; can't fathom that a street that is 150' long and four properties that doesn't show some visible signs can cost anywhere near \$200,000; will need to be educated. Nagel that is fine; they will get preliminaries in about three or four

weeks. Zeller continued this is one he really challenges everyone to come up with some value engineering; might be a more expensive way of fixing this, but thinks they are looking for least expensive solution; looking at it from Wasniek's perspective, he has to recommend something that works and sometimes it isn't the cheapest solution. Craggs asked planning horizon - have they budgeted or planned to budget for this in upcoming year 2009, 2010. Zeller can tell him they have not planned or budgeted for this; study is funded through WMO, and they will take lead on project; in terms of any financial responsibility, that's going to land on City; number they just received in the last 30 days; what Nagel is informing is that this is a problem they will have to deal with at some point in the future. Nagel said basically preliminary done in November, fell through cracks for awhile; first step is to have WMO and Wasniek finish study so they at least have something they can work with; no further action is needed and he will convey to Mr. Wasniek to at least take one zero from recommended solution. Zeller said CC at some point does need to have discussion about planning and budgeting for these types of problems; looking at their water drainage study and seeing how many properties are downstream from that gully and ultimately impacted, they really need to start looking at that and determine whether that is something that should be handled as assessment or establish a runoff utility; need to have discussion about that and maybe appropriate to have a workshop after study received from WMO.

Comprehensive Plan. Washington County is just about done with their transportation plan for Comp Plan; Gilles is working on utilities sections, Wirth will work on community background, and Livingston and Mayor the economic development and housing section; Louie Jambois will write inter-governmental relation section; at some time, they will need work session so he can redefine mission statement and goals. Zeller added they would simply insert WMO document (SEH prepared document the WMO authorized be drafted). City Engineer said DNR has their own fund management plan, but there may be a number of actions on the City's part required to comply because surface water management plan they have they can adopt; part that is lacking is need to include in addition to that some type of action plan of their own, how they will incorporate standards that don't already exist or aren't supported by the current ordinance. Zeller recalls instruction from Melissa that they provided 90% of what needed for Comp Plan update. Nagel noted that there is a surface water management plan they have to have; need to plan for problems, what they can do about them and cost; that would be part of any drainage utility, because you need to have some plan. Zeller asked if there was any reason they wouldn't have this done until December 2008. Nagel wouldn't know why they wouldn't have it done before then, but that is when they have to have it done; does know Met Council isn't happy if they send everything in at the same time. Zeller would appreciate if they would strive to get that in earlier; would be sense of relief for all of them to be done. Livingston really likes the way this is now happening; involvement by PC members, citizens, and cost thereof is reflecting that; hopes schedule isn't reflecting that also and that they would at the last minute have to go out and hire someone; doesn't appear that will be needed. Diane Wirth, PC, understands you have to submit that to every affected town in School District to have 3-6 months to respond; that's in addition to deadline; really should have it done before that and hoping that still part of plan. Livingston wondering if in this process the Met Council provides a template that shows them guidelines; he would really like to see that, even in their packets on a monthly basis; thinking of City's timeline; complicated enough situation with many parts update would be very helpful and maybe allow them to catch something when reviewing. Nagel said they would be starting tomorrow; County is putting workshop on for Comp Plan. Craggs would recommend they develop an internal schedule that indicates different pieces that have to be done, when they would like to have it done; asked they consider asking Nagel to do that. Zeller comfortable with that as well as Nagel; would like to talk with Wirth about some of the land use zoning issues and will call her. Livingston has project planning software that he could loan his laptop to the City for the purpose of doing that; expensive program; will coordinate with Nagel. Craggs following up on the last meeting regarding codification of Ordinances; left it directing Nagel to negotiate proposals and get clarification. Nagel said they basically decided they could save a couple grand on that including the Comp Plan since they didn't have one at this point in time; cost should be under \$9,000; Staff and City Attorney reviewed agreement. Zeller noted that is another item they are sensitive to, so anytime there is a development if he could include that in update. Livingston thinks they need to look at two separate things; one is to get Ordinances codified, period, full stop; second thing is what Craggs, Staff, and he were doing with the first half - going through public and CC comments in looking to see if some of the more obvious, either archaic or redundant items, could be changed; they did do some work on that; Zeller had mentioned maybe Livingston could do it on the second half; all he wants to say is 'no' because they need to get Ordinances codified; doesn't want to loose track of the fact it is a wonderful opportunity in the next year to really look at the City Ordinances; he will be happy to go through and do what he did on first half, but not under a schedule that would delay the codification for three to four months. Zeller's understanding was that some of those major items that really jump out at you at the very least they would flag out; believes that is part of their service. Nagel said they will personally notify the City of all conflicts in the Ordinance and will also notify them of Ordinances that appear to be out of date; they will then bring those back to CC, take a look, and decide if they need further attention. Livingston referred to when Craggs, Staff, and he met, they got into some philosophical questions and had arguments in a good sense of that word and came to conclusions that could be presented back to CC; thinks that needs to be an ongoing process in City's management; would like to see that it is done at some point in the next period of time after codification at least to the second half, so they can look at things and question if they don't agree; that's the type of good commentary and work that creates Ordinances that

reflect the City and where it is today. City Attorney said to Livingston's point, he thinks it a very good idea; the codifier is going to catch the complex and perhaps make some suggestions, but one of the ways he has seen what he is talking about accomplished is by having a standing Ordinance Review Committee that meets once a month and identifies three to five chapters it's going to go through on a monthly basis; they are not sitting down and committing to 40 hours of work on monthly basis; looking at something very manageable and putting public on notice. Livingston said there is a committee, the extent has not been dismissed yet. Staff said materials initially sent to codification have been gone through with fine-toothed comb by Ruth Ann; they are not going to benefit any greater than having had her go through it.

## **7. CSAH 18 REDESIGN**

Cory Slagle (Washington County Transportation).

Cost Participation Agreement. Not quite done; unfortunately got pushed to side a bit; have to compile a few things and then get draft version to City to review; would like to put off approval of this into October/November; also talked to Lakeland Shores and they are putting off their approval until November; dollar amounts involved have not changed, just actual document. Craggs asked for Slagle to restate those. Slagle did not have them with him; can email them tomorrow.

3<sup>rd</sup> Street Option. About two weeks ago, September 6, they met with Dave Erickson and representative from the City to discuss 3<sup>rd</sup> Street, that intersection at the Freedom Station, to look at some different alternatives; have come up with a new alternative [distributed]; also sent this to Erickson for review. Zeller advised they had a meeting and they looked at three alternatives prior to this; this was really highbred of two of the alternatives from his recollection, but probably the biggest issue for quite a few of them is 3<sup>rd</sup> Street is still an open intersection; had considerable discussion about right in, right out, but Slagle's opinion is this works. Slagle said their big issue was conflict with the frontage road and 3<sup>rd</sup> Street intersection; they are happy that is closed off with this option. Craggs not sure he understands what this option is from the drawing. Zeller said first of all there is a right in, right out additional turn lane to the property; the frontage road access onto 3<sup>rd</sup> Street is terminated so they no longer have that conflict; discussion that elevations would change; CSAH 18 itself is dropping about 2' and where the island and sign are currently located, they are looking at to determine if that can't be eliminated so there is more room for vehicles to function; also discussion about moving 3<sup>rd</sup> Street access off property further to west; plan doesn't reflect that, but is something being looked at so they can provide additional stacking over to that property before they are on to CSAH 18; there is access from CSAH 18 to the station, a right in-right out only; frontage road remains open up to the station; other valuable thing for them to know is that Slagle has worked out a detour solution while they are under construction; that plan is to route all traffic down the frontage road; he feels very good about this plan; still a part that wishes it was a controlled intersection, but Erickson expressed some concerns and made some comments/arguments he thought were very fair and reasonable; County did go back and review plan and came back with this recommendation that is an improvement and could work. Craggs clarified the entrance to the station changes whereby you can turn right off of CSAH 18 on the north end, or you go past into the existing entrance that comes in from the south end. Zeller said only clarification he would make is that they can no longer utilize the frontage road; cannot turn into frontage road, double back to the south, and then go to the crossing. Craggs asked Slagle how he thinks this will impact traffic, as they will still have individuals coming in off of CSAH 18. Slagle said the big impact is eliminating the conflict point at the intersection of the frontage road and 3<sup>rd</sup> Street; since they are adding that median, the distance between CSAH 18 and frontage road was getting very small; down to 6-8'; pushing cars back away from the intersection; they will have to show the bike path that will connect where the old frontage road is; he will look at how they can modify how close it is to intersection; looking at line just west of the bike path, they have quite a bit of right of way so can move trail to west. Zeller honestly willing to take it a step further; asked if there is anyway that can be routed along the road running right through that property, if he could bring it back further. Slagle said that would likely have to be negotiated. Zeller said they would be trading easements here between the Walton property, the Team Investment property and the Plaza property; may have something they could look at; one of their worse intersections in town, so would hate to see the bike path come in close proximity there; discussion of sidewalk being along the 5<sup>th</sup> Street realignment; maybe the sidewalk can function as the bike path and they can have dual purpose there instead of having the bike path running north/south and sidewalk running alongside that road; also saw memo regarding Safe Routes to School; noting crosswalk at 5<sup>th</sup> Street or any part of this path, asked it that would qualify for program. Slagle said they actually submitted application last year; wasn't selected and not sure how it ranked or finished; worked with school district. Nagel said he and the City Engineer talked about it before the meeting, and they will take another swing at it; asked Parotti to make a couple phone calls to see if 5<sup>th</sup> Street realignment could somehow benefit. Livingston said Zeller mentioned moving the entrance to the Freedom Station west on 3<sup>rd</sup> Street; asked where on map he is looking at; likes that idea a lot – the further they can move the turns to the west the safer it is going to be. Zeller said it is an estimate; Erickson and his traffic engineers are looking at considering realigning those pumps to east/west as opposed to being as they are now; evaluating entire site; he understands moving the canopy is the expensive part, but moving the pumps might be economically feasible. Craggs asked Slagle whether he had discussions with the Walton's about this plan and Slagle answered no. Craggs said in the past they have expressed an interest and understanding to what objectives are and options; would encourage him to speak with them. Slagle said he has been in contact with Jan Jagerson and she has

expressed she wants the frontage road left in place; doesn't want driveway directly out to CSAH 18 or frontage road to be connected with through traffic; would like it dead ended; will send copy of plan to her. Zeller advised their option is right in, right out as well out of that access point; asked Slagle if they would maintain some type of easement there that would also be conveyed to them, but their option is to access south of the roundabout turn to go north or they can carry through that parking lot that would have a drive aisle out onto 3<sup>rd</sup> and north on CSAH 18; quite a bit of easement work that will need to be done, but that is plan they came up with. Craggs applauds their efforts because this is difficult. Slagle said it is not an ideal situation but they are making things better. Craggs said certainly benefits are closing off frontage road; that is where they are going to have and have had accidents; interested in hearing more about how Mr. Erickson's potential plans have changed; much discussion was about emergency vehicles getting in and out and discussion about gas trucks getting in and out; presumes he has taken that into account. Zeller noted through that elevation and removal of that island and the sign, that certainly frees up space for vehicles to turn and maneuver.

8<sup>th</sup> Street Intersection Update. Noted one slight error on drawing where it says 8<sup>th</sup> Street that is actually Hudson Road and 8<sup>th</sup> Street is actually on opposite side of roadway. Livingston thought it dual carried up to north. Zeller said just so they know what side of the road that is on; runs on an angle; committee was formed with representatives from County, City, and MnDOT to look at different alternatives at this intersection; this is a ¾ intersection, so there is a median in the middle which allows less turns from CSAH 18 and also allows u-turns; big difference is it does not allow traffic to cross from one side of CSAH 18 to the other and also forces all traffic to go to right; traffic coming from west that are eastbound will have to go to the right and use the roundabout if they want to head to the north; traffic on 8<sup>th</sup> Street, on the east side of the road, will also be forced to the right; could make u-turn up at light or possibly City street if local resident – could use 8<sup>th</sup> Street system and head south; funding application for this project prepared and due last Friday; will find out in January if they get funding; approximately a \$60,000 project with \$13,500 coming from City. Livingston asked how signed off MnDOT is; are they happy with this. Slagle believes so. Livingston said the representative from MnDOT at their last meeting was talking to set a u-turn area north of the last light he thinks, rather than have them go through City streets and turn at the light or whatever that near the gravel pit turn that he believes is where they were talking about allowing a u-turn area which would help; understanding at that meeting was there were no restrictions on it [larger vehicles]; something to take into account because he thinks it is a bit convoluted how to get back southbound the way it is now; delighted there is some movement on this. Glasgow said from weigh scales, all semi's going north on Highway 95 are pushed to 8<sup>th</sup> Street; they will have to go south to roundabout and come back. Livingston said this was discussed and that's why he is surprised that ¾ plan now out because that was an unresolved issue; doesn't know if any of them thought it an ideal solution, but State was working on northern turn and not sure if anyone was assigned to the southern turn or not; gravel trucks were a known significant issue. Zeller said actual shape of those islands seems to still suggest traffic coming and going on both sides of island; seems they might want to emphasize that a bit more. Slagle said part of the difficulty was getting a larger vehicle to have enough room to make that turn on the City street; that is maximized in the center there of what could be allowed without vehicles riding up onto the median; will have to find out if there are any signs in that median. Zeller thinks great start but needs to be worked on. Slagle will take their comments back and will get some answers from MnDOT and from their traffic department; perhaps they can put together a matrix of what options they looked at and pluses and minuses of each and why this one was chosen over the others. Craggs said it would also be beneficial for those who have a hard time following this to go see something that is similar; asked if there is an intersection that he can point to. Slagle said at CSAH 10 which is 10<sup>th</sup> Street in Oakdale and I-694, the west side of the roadway where the K-Mart is on the south, there is ¾ road access there; when you are coming out of K-Mart onto CSAH 10 you can't take a left - forced to the right and there is a median there; same way if you are on the north side of CSAH 10 in that strip mall - you are forced to the right and you can't make a left. Livingston said off the subject but on the map, if he looks in the median to the north of the intersection of 8<sup>th</sup> Street and the CSAH 18 they will see an oval; that oval grows weeds and those weeds block viewpoint; seems to be a debate every year as to who owns it; the County says it's the State problem, but the State doesn't mow it; believes two years in a row the City has ended up doing that not because the City asks for it but because the person who does the mowing sees it as a hazard; it is a hazard; if they are going to be doing anything there, thinks maybe a little judicious concrete might solve problem; really a vision obstruction in August. Niedzwiecki had comment; maybe off base but asked if there is some Beanie's traffic during the summer where they move boats and trailers across this intersection that would need to be rerouted.

#### **7a. TAX INCREMENT FINANCING**

*[copy of Development Program for Municipal Development District No. 1 and Tax Increment Financing Plan for Tax Increment Financing District No. 1-1 (Lakeland Plaza Redevelopment Project on file at City Hall).]* In the absence of David Drown, Nagel reported on TIF Plan. Staff advised it was sent to them separately and it was noted to watch for Drown's email. Nagel referred to Table of Contents; basically what Drown doing here is setting up the Municipal Development District shown on Exhibit 1; they are all familiar with payment of public costs and development activities, also contained in Exhibit 2; other part of this is TIF Plan; first part actually sets up the development district where the activity is going to take place; essentially what they have is a tax increment district itself which is the Freedom station and

Lakeland Plaza; TIF Plan is really basis of what they are doing here next month; key is statement of need and public purpose; shows specific development expected to occur, property included, development costs, use of tax increments, statutory duration of TIF District which allows them to do this over 25 years; use of what the increments will be - 'green acres,' 3 year rule, 4 year knock-down rule, tax increment pooling/5 year rule; as Drown told them, they will need to approve the business subsidy policy which is really a three page document that essentially tells them if the business subsidy exceeds \$100,000, the Authority must conduct a public hearing on the subsidy; assessment agreements and how those are done, modifications and how that works, administration and financial reporting and disclosure requirements which is basically Niedzwiecki's department, and findings and need for tax increment; basically have a run through of all of the information they have to provide to the public; real action is in exhibits, and they have seen before at Drown's presentation. Zeller proposed scenario if property on 5<sup>th</sup> Street North approached the City and wanted to make application for TIF; because it is in the Municipal Development District, effectively the groundwork has been laid and they would be in a position to modify Municipal District No. 1 to include it. Nagel said it would probably be TIF District No. 1-2; can do for number of years. Zeller noted discussion about open house for those business operators/property owners to come in and learn a little about this program; asked if it made sense to do that sooner rather than later so that if it looks like they will see some applications, they can handle up front. Nagel said they have talked about that before; as he talked to Erickson, his feeling is doing it in October in Lakeland since they have public hearing scheduled and shortly thereafter they would do the rest; Exhibit 2 shows parcels and valuation, Exhibit 3 the TIF projections and valuations. Zeller asked about tax evaluation and appeal and asked the City Attorney to make note for final agreement. Nagel continued Exhibit 4 the Statement of Fiscal and Economic Impacts and Exhibit 5 the Market Value Analysis; the quicker they develop, the sooner the City gets paid back; projections provided by property owner. Zeller would appreciate a rendering of what the facade of that center would look like after their work completed; site plan and elevation of rendering. Nagel advised CC should review and any questions directed to himself or Staff in the next week or two; next step is Public Hearing in October; supposed to be adopted October 16, 2007. Craggs thought one of the things that might be beneficial is to come up with a list of frequently asked questions about this whereby they are able to answer questions from residents; incentives and drawbacks. City Attorney would add to comment on planning and walking through process that they have engaged the Briggs and Morgan Law Firm as bond counsel and they have been in contact with Drown; would expect within the next couple of weeks they will begin work on a Development Agreement so that if not in place, at least close to being finished by October 16. Livingston noted throughout this process there has been a disintegration of local businesses down there and they have one more going out right now and another perhaps following; hopes that out of this the City will begin to either attract community-owned locally-owned new non franchise businesses which was Erickson's hope when he bought the place; going away because of road uncertainty, redevelopment postponement; would publicly call on City and owners to put that back on agenda both now and as the renovations are done. Craggs, going with what Livingston said, still thinks there has been some expectations that have been dashed; consequently has impacted tenants views on what may or may not take place; thinks they are doing the right thing, but it has been frustrating to tenants because they expected things to happen more quickly once the present owner took possession of the property.

## **8. ADMINISTRATIVE CONSULTANT REPORT – see Agenda Item 6a above**

### **9. CITY ATTORNEY'S REPORT**

Hubbard litigation. The City has been involved with respect to Hubbard property; they have the document he received today which is the Commissioner of the Department of Natural Resources' final decision on this matter; decision they will find on page 4; accepted recommendation of the Administrative Law Judge subject to only a few minor changes/revisions to the ALJ's findings; order specifically says that the Commissioner affirms the DNR's denial of certification of the bluffline setback variant granted to Robert W. Hubbard by the City of Lakeland; Commissioners memorandum and order doesn't shed, in his opinion, light on discussions that took place at the hearing; limited discussion of the ALJ's report itself; instructive is a statement within the memorandum that says the applicant and the City effectively failed to conclusively show that there were not other reasonable designs that could have been employed by the applicant [Hubbard] which would tend to say to him that the standard that the DNR is taking a look at when the CC is granting variance in the River District is a conclusive standard; CC must conclusively find that there is no reasonable alternative to what the applicant has provided; thinks that is different than what the Statute provides; Hubbard and his family have several options; variance has not been certified; will have option to challenge to District Court if they show choose, option to build behind setback if they so choose, or will have other options with respect to remodeling the existing structure as it lies on the property; at this point, the variance has not been certified; denied; they will deal with whatever requests come forward; happy to talk offline with individual CC members if they have questions regarding the process or matter. Zeller not surprised by this but continues to be disappointed by the lack of input and direction that he believes they are receiving from DNR; specifically recalls a meeting where he participated prior to the actual hearing on the application looking for solutions, looking for compromises; DNR was not willing to have a conversation; their statement was there would be no compromises on this particular application; feels City put in position where they were set up to fail; now he sees other

correspondence from DNR where they are getting involved in the size of an individual septic system; reads in the newspaper the challenges Afton is having working with DNR; very disappointed in the working relationship and direction that relationship is headed; haunted by a comment that was made during the hearing where their authority is given to them through the City ordinances; they either need to figure out how to patch the relationship back together, or need to start looking at their Ordinances and taking back some of the authority they apparently gave them; incredibly frustrated by this process. City Attorney said process in this particular case has been frustrating; most frustrating for him is the fact they are unable to identify the standard by which the DNR is going to judge whether or not a variance in the River District should or should not be certified; that's the reason that the CC got into this litigation in the first place because they deal with variances every year; always going to have variances that need to be considered for properties located in the River District; to say now that the standard is that the CC must conclusively find that there is no other option he thinks frustrating because he doesn't think it is a standard that the Statute sets out; Statutes and administrative rules confer authority to the DNR with respect to the certification process; thinks they should probably, and thinks it advisable, take a look at their Ordinances to make sure that the spirit of the City's Ordinances reflect process the City of Lakeland wants to utilize moving forward and effectively represents the relationship as it should be between the various agencies in considering zoning issues. Craggs understanding that Commissioner was to act within 60 days and that there was some question on whether the Commissioner has done that. Zeller said he is outside the 60 days but within the 90 days that they determined they needed to act within. City Attorney said it is an interesting and fairly complex issue; zoning requests have to be acted on within 60 days; there is an open question as to whether this procedure is governed by a different Statute that allows the Commissioner to add within 90 days.

Nazar Variance. Referred to letter dated September 5, 2007 directed to Dale Homuth of the Department of Natural Resources with respect to property owned by Shane Nazar; at the last CC meeting, they approved a variance for septic for Nazar property that is located in the River District so the variance for septic system needed to be certified by DNR; resolution was prepared and executed by Mayor and forwarded to DNR for certification; they received communication from DNR which conditionally certified variance; in that, it identified what the DNR views to be zoning enforcement issues and correspondence effectively asks the City to review the zoning enforcement issues and confirm those issues have been taken care of; his response indicates that the City from day one with respect to the Nazar property has been absolutely clear that the property is to be used for single family use only, and that the City doesn't view this property as being in violation of its zoning code; since follow-up correspondence received from DNR which he forwarded to CC and will respond to accordingly; appears from the Department's correspondence that if the City takes the position there is no zoning enforcement issue that it will remove the conditional certification; from the City's prospective there is no zoning violation at this point; DNR is concerned about some advertisement of the property where the property owner is advertising it in a way that the Department is concerned; from their prospective, the property isn't being used in a way that violates the zoning code, and so they will respond accordingly; hope the Department will respond by withdrawing its conditional certification; thinks purely a legal issue and their office is dealing with it; certainly not privileged material and if the property owner hasn't been provided with it, Staff could forward information.

Defiel Property. Talking for number of months of property owned by Bill Defiel which is 850 Quixote; met a couple of weeks back; have civil action that relates to Defiel and criminal action matter that are both pending in Washington County; notified that Defiel has engaged his engineer to complete fieldwork the City has requested on a number of occasions; assured that fieldwork will be reduced to the report forms the City is requesting; for the time being, those matters are on hold pending City's receipt; thinks they are moving forward in that matter and would hope to have resolution no later than the first of the year but hopefully within the next couple months.

Cook Litigation. Engaged in litigation of zoning enforcement matter with a property owner Glen Cook - debris case on 6<sup>th</sup> Street North; were in court last month and Cook was given until October 1 to clean up his property; if he does not clean up property by October 1, he has agreed to spend 10 days in County jail; hopefully property is cleaned up by October 1 and they will be keeping a close eye on that.

Beanie's Patio. His office has been working on this for a number of months dating back to last year - patio dispute with the Mau's; working with property owners to gain compliance with City Ordinances; they were before City last year for variance which was denied; will have recommendation for CC at the next meeting as to what approach needs to be taken; hopefully they will have some progress made by the next meeting.

Staff informed there are a number of issues that she exhausted her ability to solve and she has forwarded to the City Attorney. City Attorney said key from an enforcement standpoint is when there is an issue and a new issue, it needs to get to their office quickly so they can take action swiftly; decision came down in the Court of Appeals case with the Hinz's last month; decision came down essentially in the City's favor wherein the Court of Appeals found that the Judge couldn't require the City to grant a variance, that there is no action [mandamus] that allows the Court to require a variance as a remedy; further findings that the City had not improperly condemned the property; essentially on both counts that the Hinz's had filed their lawsuit, the City was successful at the Court of Appeals level; Court has sent the case back to the District Court for additional findings; case on condemnation that sets out some factors that the Court of Appeals is directing the District Court to take a look at; at this point, they are very pleased with work the lawyers representing the City

have put together and argument they made; very successful at the Court of Appeals level; they will see where it goes from here at the District Court; at this point, pleased with outcome. Craggs asked clarification on Mau update; were they actively talking with the Mau's, as the City Attorney said he would come back with a recommendation. City Attorney has had a number of communications with the Mau's; he's been down there, Staff has been down there with him, he has received correspondence back; at this point, the matter is with their office and they will be making that recommendation based on everything they have compiled to substantiate some of the issues raised by the Mau's; had opportunity to do that; will be talking with them again this month and will have a formal recommendation at the next meeting. Larsen asked if Cook goes to jail for 10 days does that negate his responsibility to clean up his property or does he still have to do that. City Attorney said reason they are at where they are on that case is because there was both a criminal charge and civil charge pending; Cook went to court on the criminal charge and entered into a plea agreement with their prosecutor whereby he was given until October 1 and if he doesn't clean up his property by that date, he goes to jail for 10 days; they went to court on the civil matter in August because he hadn't answered their complaint; actually appeared and essentially told the judge he was going to clean up the property; if he doesn't clean up the property he has to go serve his time; that doesn't negate his responsibility nor does it dismiss the civil case because then they will move for a default judgment on the civil side as well as seeking costs, fees, and additional jail time if in fact that property isn't cleaned up; thinks there are some extenuating circumstances out there from his discussions with Cook, but that doesn't negate his responsibility; approach they don't like to take, but the fact of the matter is if property owners can't keep their yards in a state not offensive to their neighbors, it's a process they need to undertake.

#### **10. CITY TREASURER'S REPORT**

Treasurer's monthly report approved in Consent Agenda above.

#### **11. CITY STAFF REPORT**

Staff noted PC has been meeting with businesses and there will be a public hearing at the PC meeting in October. Zeller referred to brief conversation with Staff about an annual expense that the CC has participated in for a number of years and he didn't make a note of recipient. Staff advised Youth Service Bureau; expenditure has not been approved; Mayor suggested they might want to come to talk to CC, but in the meantime, she was obtaining information from them about numbers of Lakeland youth who may have been participating in the programs they have to offer; will try to have that information for them and they can make decision from there. Zeller asked this be a conscious decision CC makes; thinks they have over-stamped that and important they have a better understanding of how it directly benefits their community.

#### **12. COUNCIL MEMBER REPORT/Glasgow**

Had another Cable Committee meeting for moving forward; going very well; had honor of attending WMO for Mayor; Gully Project approved – engineering firm hired at cost \$23,220; total project cost estimated at \$175,000; low bid was \$14,000 but there were three right around \$20,000. Zeller thinks worth mentioning, and will be curious to look at minutes from that meeting how the WMO decided to bid that particular contract for engineering services; five bids received; considerable discussion it might not be worth the time to send out for bid because preliminary engineering work had been done; prevailing thought was they had an unfair advantage going into the bid; this probably third highest bid so wasn't even the second or third lowest; interesting to see how they evaluated proposals and qualifications.

#### **13. COUNCIL MEMBER REPORT/Craggs**

Proposed they establish an Advisory Committee to the CC as it relates to City Parks; rationale has to do with two things both in terms of timing and interest - planning to invest or budget to invest potentially a substantial amount of money both in terms of restoring the beach as well as to upgrade the parks; in addition to that, they are in the process of developing a Comprehensive Plan that seems for those two reasons they should give consideration and get some more feedback from residents; had opportunity to talk with neighbors who live near parks here in town to get a sense from them what some of the issues are; talked about such things as security; have had several conversations with Livingston about upgrading the parks and thinking about ways the parks could be used by variety of different types of youth; talked about putting together an improvement plan; would propose they put a request in newsletter to see what kind of interest there may be; also will voluntarily contact a couple individuals with the thought this would be an advisory committee that would meet on a quarterly basis. Zeller's one concern would be setting up a committee; challenge with a larger group is trying to find a meeting time and meeting on a regular basis; would be in favor of it but his suggestion would be they make it a three-four month committee so they could develop a plan; once they have a plan in place, they could evaluate the need to have the committee continue its work or, similar to CSAH 18, once the plan is established and work complete, they just facilitate the plan itself. Craggs saw besides the plan a purpose of getting some more directive in terms of prioritizing, what they would want to do; they all have a perspective what's important relative to the parks; thinks they want to broaden that perspective; certainly supportive of an ad hoc committee, and in terms of timing, it would make sense to do that; looking at just an advisory committee with responsibility of getting input in a timely way and not to slow the process down or to spend a lot

of time hashing out per se what they can do; for example, a couple neighbors to Humphrey's Park asked why there aren't any lights out there; something as simple as that. Zeller in support but wondering if they could meet more regularly while they are developing the plan in an attempt to get the majority of the work done in a short period of time and then have the committee meet quarterly or biannually to address new issues that arise; suggested having conversation with Lakeland Shores and the School District to see if there are additional facilities they have plans to install, so they are not duplicating efforts. Livingston was going to say that also - one of the things that Craggs discovered, and he can confirm, is that facilities around this part of the Twin Cities area are dear; if the facilities are properly maintained and scheduled, they can be a resource for more than one city; knows that the field behind the Beach Bar is in constant use, it is being maintained, it was improved, and does not believe city funds were involved in that; opportunity not only to have citizens of Lakeland involved but also to perhaps have people who are pretty well versed in this type of thing come in as advisors in security, lighting, fields, and broaden it out a bit; agrees with Zeller if they can get the other communities involved in some way it would be helpful, but thinks Lakeland has to be prepared to fix its parks on its own if they can't get other people involved. Zeller said Bayport's playgrounds were recently re-inspected by the LMC and some of their equipment was determined to be uninsurable; maybe worthwhile contacting the League to see what's a higher risk item. Craggs said they actually have a list of them from previous reviews; much playground equipment needs to be replaced. Zeller continued a number of years ago, Bayport, Stillwater and Oak Park Heights conducted a feasibility study for a community center; asked if that report was ever issued and did it reveal anything that potentially can shed some light on their park's system. Craggs never saw a final report and said focus actually for a meeting place at that point in time. Zeller suggested following up to see if they can obtain a copy of that study. Larsen asked how to make the beach a park. Craggs not familiar with the process. City Attorney thinks all is needed is to designate it that way and reflect it in the City's Comp Plan.

#### **14. COUNCIL MEMBER REPORT/Larsen**

Streets discussed; water continues to test negative for contaminants.

#### **15. COUNCIL MEMBER REPORT/Livingston**

Meeting to give recognition to the police forces that were in Lakeland on the night of September 24 was taped; presume Glasgow will be offering to Government Cable Channel; worth it in watching to take a look at number of forces who were here and involved; good feeling; Bill Hutton, Washington County Sheriff thought somewhere between 50-60 officers immediately responded and there was no confusion and good communications plan; wants to commend publicly in session the law enforcement agencies that responded; good to know their plans, good to know their SWAT teams can come together immediately all on the same page because they train together; thinks very worthwhile exercise; wants to bring to people's attention there is a group in the Lower Valley that has been working with the County Social Services Department and they are forming to do community work predominantly in homes where there are older people, people with problems that are severe that they can intervene and make a difference in terms of fix up/clean up, etc.; something the Lower Valley has had sporadically; can remember in the past of painting houses and things like that; can tell them that predominantly through the Methodist church, the pastor has been running a camp to train these people for the last seventeen years; a group from there was trained; they are serious, they are seriously managed, and they deserve at least knowledge on the part of our governments that they are here and it is a resource.

#### **16. MAYOR'S REPORT**

The representatives from Lucy Winton Bell communicated with him asking if they had any additional questions or comments; again, they are hoping for City's support. Nagel said one of the things they haven't received and have requested several times is number of participants; still haven't provided that information and the only reason it hasn't been placed back on agenda. Craggs said they were told how many Lakeland youth there are; they asked how many of those youth participate. Additional discussion will be held when information received.

**17. ADJOURN – M/S/P (Craggs/Larsen) to adjourn at 9:14 p.m. Craggs, Glasgow, Larsen, Livingston, and Zeller voted aye. Passed unanimously.**

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Brian Zeller, Mayor

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Kate Piscitello, Recording Secretary