

CITY COUNCIL MEETING
April 15, 2008

COUNCIL MEMBERS PRESENT: Robert Craggs, Richard Glasgow, Peg Larsen, Robert Livingston, Brian Zeller
STAFF PRESENT: Jim Gilles, Mark Nagel, Tom Niedzwiecki, John Parotti, Nick Vivian, Chris Wallberg
OTHERS PRESENT: David Drown, Randy Kopesky, Jeri Ryan, Tony Willger

1. **CALL TO ORDER** by Mayor Zeller at 6:30 p.m. with moment of silence in memory of Mary Pulse.
2. **PLEDGE OF ALLEGIANCE** was said.
3. **CONSENT AGENDA** – Livingston requested Agenda Item D pulled. **M/S/P (Larsen/Livingston) to approve Consent Agenda Items A-C. Craggs, Glasgow, Larsen, Livingston, and Zeller voted aye. Passed unanimously.**
 - A. **Minutes of March 18, 2008 Regular City Council Meeting and April 1, 2008 Special City Council Meetings**
 - B. **Treasurer’s Report**
 - C. **Bills to be Approved**

Agenda Item D. Livingston said from reading this, the people involved - City and County - have done a comfortable job of correcting a mix-up; these things happen and get corrected; they always gripe about them, but in this case, he would like to say ‘well done.’ **M/S/P (Livingston/Craggs) to approve Consent Agenda Item D approving the abatement/reimbursement/reassessment of water utility assessment for property west of 78 St. Croix Trail South. Craggs, Glasgow, Larsen, Livingston, and Zeller voted aye. Passed unanimously.**

 - D. **Resolution approving Abatement/Reimbursement/Reassessment of water utility assessment for property west of 78 St. Croix Trail South**
4. **LAW ENFORCEMENT REPORT** (see additional information Agenda Item 6a)

Nagel informed one of the deputies would probably be available around 7:00. Glasgow said there have been some rumors around town about break-in’s; asked Sheriff about that and found rumor false; been extremely quiet since last fall.
5. **THE CONSTRUCTION OF STREET AND UTILITY IMPROVEMENTS TO 3RD STREET SOUTH AND 5TH STREET SOUTH & UTILITY IMPROVEMENT AT AFTON-LAKELAND ELEMENTARY SCHOOL**
 - A. **Public Hearing on Street/Utility Improvements**
 - 1) **CALL TO ORDER** at 6:35 p.m.
 - 2) **OVERVIEW OF PROPOSAL** – Nagel advised this gives them the opportunity to assess the project assuming the bids come in like they expect them to; essentially during the Development Agreement discussions yesterday with the developers of Lakeland Plaza, they had no problem with the breakdown of costs; only issue was whether or not they wanted to pay the entire cost of the water main from 5th Street south to CSAH 18 which is part of the project they can get along without; only part of the School District cost there is about \$8,000 for entire project; Gilles and City Engineer just met with a gentleman from the School District. Zeller noted Nagel referenced the conversation or meeting that happened with Lakeland Plaza development; asked if amount \$72,000; should they discuss during the public hearing or handle later. Administrator said not even necessary; it is up to them; if they don’t want to do it, they don’t have to and they remove it from project. Zeller does want to discuss; wondering if they should do during Agenda Item 6 or now. Nagel said they will discuss in Agenda Item 6, as this really doesn’t have anything to do with it. Gilles had nothing to include. Parotti added that it was discussed with the School District briefly and there was question about proposed School District’s share of costs. Nagel said the result of his discourse was that the Lakeland Plaza representatives didn’t have any problems with the way the costs were distributed for the project either.
 - 3) **PUBLIC COMMENTS** - none
 - 4) **WRITTEN COMMENTS** - none
 - 5) **HEARING CLOSED** at 6:40 p.m.
 - B. **Discussion**

Administrator said as they go to Agenda Item 6, he can provide the status of the agreement; asked they have the approval of the Resolution and they can either wait for Drown or he can provide an update of what happened along with Gilles yesterday at the meeting. Zeller would appreciate they have an update of the status of the agreement and meeting before they move to the resolution.
6. **LAKELAND PLAZA DEVELOPMENT AGREEMENT**

Nagel noted meeting went very well; would say the only real problems they have are trying to figure out easements; have one plan and a backup plan, and thinks Drown would be comfortable with having them approve the agreement they looked at March 18, 2008; doesn't change; however, they have a bit of time, so if they approve a special meeting/work session for May 6, 2008, they will have the complete agreement with the appendices; have some things they need to work out as far as the easements go; Gilles has been working with Dave Erickson and Erickson is finally realizing they have a lot of things to move forward in a very quick timeframe as well; safe to say there isn't any disagreement on cost at all in terms; Gilles can update on \$72,000 and can explain what that cost was for; that is really their decision as to whether they want that or not; they don't have any disagreement but would have to pay 100%; they're just not sure they want to do it at this point. Gilles said right now the reason for the \$72,000 is the water main runs underneath 5th Street; on their plan, they have a building over that; if they want to relocate it, it will their cost they have to relocate it on; based on the \$72,000 price tag, they are beginning to wonder if they want to do that or if they shouldn't rework their plan; one of the other drawbacks is if they do not move the water main, there are power lines they couldn't make Xcel move, so they would have to stay that may also change their plans again because they may need more easement area; those are the things the Plaza people are looking at right now; essentially they hope to have information to him by tomorrow afternoon; when CSAH 18 redone, they will be crossing the road; City is doing that; won't be quite that far down; actually Plaza will pay a small percentage of that too because if Plaza wasn't adding all of these structures, they wouldn't have to complete the loop; they will pay a small percentage, City's paying major percentage as it does help the school, the church and the rest of the City; driving force here is whether or not the current location of that water main is going to be an obstacle or hindrance to them building there. Administrator said it is less expensive now; it is their architect who wants to get this down and they are trying to discuss with their architect why he wants to do it; in terms of the Development Agreement, everything they have seen has been divided out the way they anticipated it would be; wants them to see the whole thing – there would be nothing wrong - if Drown attends tonight he will provide additional information, but basically for the most part, the two sides had some good discussion and went through exactly how the process works; would say out of the 2.5 hours they were there, there was a good 1.5 hours staging and then talking about the particular easement in terms of what their backup plans are if they can't acquire that easement; isn't saying the thing couldn't fall apart, but they are moving in the right direction; from their prospective, they have done everything they can; hoping they can schedule a work session/special meeting at 4:30 and then have the entire agreement including appendices. City Attorney said to provide some clarification on what the easement issue is, so that all of the CC members are aware, if you look at Plaza drive in red, they will notice toward the south the easement crosses not only the Plaza property but the property of the radio station; if they vacate that entire stretch all the way to 3rd Street, a couple of things happen; the first will be the radio station owner wouldn't have access to the property; they need to deal with that as well; the other issue is that part of the parking lot that would remain that the Plaza uses would also be on the radio station owner's property; trying to resolve the issue, and in the next week or so, hopefully will sit down with the owners of the Plaza and the radio station to resolve the issue: as the Administrator mentioned, the backup plan is simply not to vacate so the radio station owner maintains his access to the Plaza or is maintained for use of the parking lot as well. Gilles said there is one other issue, the driveway in front of the radio station actually on his property and the Plaza property; they need dedicated right of way to 5th Street before they can sign any project paper; in answer to Craggs, \$72,000 is 100% of developer's cost that includes moving the water main down 5th Street north so it makes that south area where 5th Street is sitting right now buildable; plans written right now presently assumes water main is moved to the north and there is a building over where the water main is presently; Plaza needs to let them know by tomorrow, because their plan essentially is to move forward; if they don't want it, they need to let the City know by 3 p.m. so they can get that quote because Friday morning it will be at the County for final set up plans and go out for bid; after that they would have to do an amendment that would cost the City.

M/S/P (Larsen/Craggs) to approve Resolution 2008-18 ordering improvements (and directing preparation of final plans and specifications) at 3rd Street South and 5th Street South. By roll call, Glasgow, Larsen, Livingston, Craggs, and Zeller voted aye. Resolution adopted.

6a LAW ENFORCEMENT REPORT (continued from Agenda Item 4 above)

Deputy Sheriff reported in the month of March 93 calls for service and 18 citations issued. Zeller commented he had a suspicious vehicle in his neighborhood, called the Sheriff's Department, and really wants to say how he was impressed with how it was handled and communication back to him in terms of what was going on; happened very quickly and efficiently and he did notice in the monthly report there were a couple of other suspicious activities happening; hopes that is a trend they are seeing and people are paying attention and are not hesitating to call them. Craggs wanted to ask about any activity at the parks; there was a concern raised at the last CC meeting that after dark there have been some complaints made as it relates to loud music. Deputy said at Cully Park they had the issue last summer where one of the neighbors concerned; they have been doing drive-by at about 9:30-10:00 p.m.; only thing is at Humphries Park they can't get up to the land that goes into Belwin; would like to see some of that cleared out so they can walk back there. Craggs' suggestion they increase frequency by Cully Park. Deputy said they can do that.

7. LAKELAND GARDEN CLUB

Jeri Ryan, Garden Club Representative. They have a little blurb in the Lakeland Newsletter every month to join the Lakeland Garden Club; suddenly realizes people in the City probably don't really know what they do; thanked CC for opportunity to tell more about club; years ago when she was CC member and parks commissioner, she started the Garden Club with the intent of beautifying the City parks without the use of tax dollars because budget was small; thanked the new CC for raising that budget because Parks really need it; Garden Club has a plant sale each year, and all plants are donated; they don't purchase any of them; with that, all proceeds go back into their three parks; they have installed decorative signs in each park, developed six gardens, purchased a bench, and they plan to also make some kind of contribution to the CSAH 18 landscape design; not sure yet where they will fit in there, but definitely wants to do some type of thing there, a bench or whatever; this summer they are going to redesign and add to their gardens in Humphries Park in conjunction with Craggs' installation of the new playground equipment; thinks they will take the same stand that Craggs has taken and deal with a new park each year; they are going to start with Humphries Park and redo gardens that are looking rather old and need to have work done on them; mission is to create a sense of community spirit, pride in Lakeland all through the enhancement of City parks; their motto is "Growing Together in Lakeland;" welcomes new members and no experience necessary; has had many people on their team who started the Garden Club almost ten years ago; meet once a month; work in gardens or meet at someone's home; also create things – sometimes have done wreaths or stepping stones and have even sold some of these things; next meeting Thursday, May 8, at 6:30 at Humphries Park; they will work on a redesign and also dig some plants for Plant Sale; Plant Sale Saturday, May 17, at the Lakeland Plaza from 9 a.m. to noon; she will also come dig up plants if they want to donate them to the sale; they are digging up some trees for Lee (PC); if they have any questions, they should call her. Craggs asked follow up question; thanked her first of all for being there and they look forward to coordinating with her in terms of refining the parks; excited about the fact that she is part of the committee to help them do that; one of the things she mentioned was CSAH 18; as they know, there has been a lot of planning as it relates to that; this summer, they are actually going to move forward and the design and construction will begin; if they remember back a handful of years, Ryan, he, Glasgow and some others were part of the Design Review Committee and actually developed a landscaping plan associated with CSAH 18; raises that because in terms of budget, they have some dollars set aside as allowance for landscaping; his understanding that once the construction is completed, there is going to be an opportunity for them to provide input; they would welcome her and the Garden Club's participation; asked City Engineer if he could revisit that, as he had a staff person who facilitated the discussion whereby they actually had a report and recommendations as far as a landscape plan. Ryan asked if the landscaping committee still involved. Craggs believes it was disbanded; plans were an outcome of process and something they can use as a reference. Zeller thinks as this project is maturing and work starting before long, they should discuss that detail; asked that the Administrator contact Cory Slagle [Washington County Transportation] and as a CC come up with a plan for how to handle the ideas and implement the plan. Craggs said to remember that the budget itself was inadequate based on some of the things they talked about, so that is why he is raising it now; thinks budget up to \$50,000 for City's portion. Zeller confirmed, but said the plan has changed, has evolved; thinks it is a detail they need to revisit; certain aspects of the project the County is handling, really the line share of it, and then there is a landscaping need on City involved property; really haven't talked about the landscaping part of it recently. Glasgow thought it was for 2009. Craggs' understanding it was going to be phased in.

8. PETITIONS TO THE COUNCIL - none

9. SNOWPLOWING

Gilles advised in their packets a copy of a memo; he is suggesting building 2.1 that has 3,900 sq. ft. with a 5-year contract at an annual cost of \$26,160 for rent; this price can be reduced to \$24,852 if annual payments made, amounting to savings of \$1,308; costs for 2-1998 plow trucks from Washington County \$26,700; price does not include license and registration; looked at two different buildings, one in Lakeland Shores and one in Lakeland; both have good and bad points; going with the one that has a drive through; that is primary difference between space 2 and space 2.1. Administrator said they decided to go with a little more space because price actually a little bit cheaper if they do that and City could use more storage space at this point. Gilles continued the other thing is they will get all parks equipment, all water equipment – everything will be in one place; his thought is to centralize as much as possible; right now working out of basement and/or the shed and/or north treatment plant; would be nice to get all centrally located under one roof. Craggs asked Gilles if any consideration of a longer lease; wondering reason for 5 years. Gilles looked at 1-3-5 years; figured after that they can look at if they want to continue leasing or whether they want to build their own. Zeller said from his industry experience, he thinks 5 years is the appropriate length of time, but he might want to have an option to extend so that rents are predetermined and what the rate would be so they aren't held hostage 4.5 years from now. Gilles looking for CC action to approve equipment rental space; he will negotiate an actual lease with the City Attorney's assistance; his plan is to get it all ready to go, but until the trucks are 100%, they won't sign a lease until they know the trucks will be theirs. Administrator said one additional step would be that they want them to review all the terms before

approving the lease; they are not directing Staff to negotiate a lease they will never see again until they make the first payment. Gilles thinks it will be mid-June/July when they will take possession of vehicles, so commencement for building will probably be around June 1, 2008; County was supposed to get back to him today, but didn't; after they get those two things taken care of and the trucks in the building, he will be coming back to them for funds to get the building stocked for what they need; they will also be looking for an employee; probably should put out in paper August 2008 to interview and start September; that will provide plenty of time to get the person trained. Administrator said by that time they might have negotiated with Lakeland Shores for doing the plowing as well. Gilles said their first priority is Lakeland. Craggs asked about the proposed employee and job description of that employee. Nagel confirmed they will absolutely be included in the process, the whole package; Gilles, he, and Niedzwiecki need to meet in the next three weeks so they know what the budgetary impacts will be; they have \$34,500 budgeted and he is thinking it will be another \$35-40,000, but that is what it would have been had they had a private contractor do it; they have been exchanging emails recently and will have some of that information for them May 6 at the special meeting; maybe have a draft job description, so they have some idea of what they will be doing; they would want someone who had capability of getting their water operating license, obviously able to drive plows, and then handle some of the park equipment as well - maybe some skills in installing playground equipment and some other things where the City could save some funds; looking for an 'all purpose' person.

M/S/P (Zeller/Larsen) to approve negotiating a draft lease of a building of 3,900 sq. ft. to centralize the storage of City snowplows, water, parks and other equipment. Craggs, Larsen, Livingston, Glasgow, and Zeller voted aye. Passed unanimously.

Gilles still hasn't received final information on truck purchase; was hoping to have by tonight; asked to put off until next month and he will have more information. Zeller noted the Administrator had referenced it earlier they may have a special meeting on May 6; if he has it between now and May, that is certainly an item they can add to the agenda. Nagel wanted to add regarding the trucks that the County wants them to pay all upfront; he will talk to the County administrator and explain an option over three years in terms of a payment would be easier; now that they have Lakeland Shores on their side, he might bring both mayors with him if he needs political power to try to get that done.

Randy Kopesky, Lakeland Shores Mayor. Attended meeting about a month ago, so adequately updated; whatever Lakeland Shores has to do they will to accommodate the City.

10. CITY STAFF REPORT

Treasurer's Report

Niedzwiecki said overall March a quiet month; would like to draw their attention to last page, Washington County preliminary market value; underlined Lakeland and they should note change from 2008 to preliminary 2009 EMV is estimated market value, TMV means taxable market value, NC means new construction; wouldn't worry too much about -73% reduction in new construction; one or two projects could really clean that number up; overall the County is up 2% in estimated market value, 3% in taxable market value primarily due to what he refers to the big three - Woodbury, Cottage Grove, and Oakdale; those are the big cities in the County followed closely by Forest Lake and Stillwater; they are generally up to 3%, down 1% on EMV, and up 1% in TMV; TMV - most likely they have properties in the City that exceeded the annual maximum TMV increase, so that could be catch up and why there is a discrepancy there. Zeller asked how foreclosures could impact the City. Niedzwiecki said their delinquencies are up in terms of tax payments; needs to follow up on that; may have another handout next month available. Zeller also noted in the Treasurer's Report from last month they were looking at some of their fund balances; doesn't want to lose sight of that because they might be able to spend down slightly and bond less as they are looking at some of these projects; would appreciate him looking at that and they can either schedule a workshop or take some CC time and review; thinks important they have more than adequate fund balances, but as he took a quick look at that last month, it looked as if they were higher than they needed to be. Livingston had comment on County's estimates; more and more convinced every day that -1%, +2% for the County is status quo; thinks the drop in values from what he's seen and looked at the last couple of months is going to be precipitous; hopes they do not in any way use those numbers as gospel in doing their budget; thinks they need to be very prudent and conservative not only in their spending this year but in their budgeting process. Nagel said he and Niedzwiecki will be meeting over the next couple of months and it would be nice to have one of their work sessions where they go through where some increase in cost may be; thinks they are shooting for near June where Niedzwiecki will sit down beforehand and provide them a perspective. Craggs said in follow up to Livingston's comment, asked when the next preliminary preliminaries coming out; would give them some sense of what the trend is if the next preliminaries start to go that direction. Niedzwiecki thinks the only reductions they will see are with individual properties. Nagel thought Minneapolis was around 8.6% lower and St. Paul around 12-13% lower. Niedzwiecki confirmed there are double digit numbers being publicized. City Attorney looking at page 3 General Legal Services with an annual budget of \$9,200; thinks CC had budgeted \$24,000/\$25,000. Niedzwiecki said he split it between prosecution fees and general, two line items; total is \$26,000. City Attorney said they should talk about the allocation because he doesn't think that is quite the way it should be; thinks they had it set up \$9-10,000 contract for prosecution and forgets what the other number was for

general legal but about \$2,000/month. Nagel agreed they will end up being low in prosecution and high on general legal services.

Stillwater Balloon

Staff provided memo about Stillwater Balloon that hopefully explained itself. City Attorney said he didn't find out about this until tonight so doesn't have a lot to add; they have been provided a memo from Staff regarding Stillwater Balloon, and apparently there has been an agreement between the Jacobs and owners of Plaza which would allow Jacobs to use part of the Plaza site as their launch site for balloons; Staff and he have talked briefly about the process for transferring a CUP, or really issuing a new CUP as he thinks the intent, and he needs to clarify with Staff, but intent was to retain the CUP for the Cool property and then have additional use permitted at the Plaza site. Zeller said it could mean amending the current CUP, but stood corrected that all businesses individual. City Attorney said one of the issues is that the use again, even though it will be in RB is abutting the residential district, so they are probably going to have some buffering issues, noise issues, etc.; suggestion to Staff was to treat request as a new application and have a new Public Hearing because now they have a new site they need to deal with, and chances are, they need to see what conditions will be required to allow the use so there is not a negative impact to the district that abuts the RB district; suggestion they have this request moved through PC just like it normally would, and perhaps if they have to expedite it, they can expedite it but they probably need to treat this as a new application. Zeller thinks that a fair comment but needs some clarification because they have tripped over this CUP issue because they were hoping to move away from CC action on all CUPs and make it more of an administrative type function; honestly they haven't had a CUP conversation in so long he doesn't know where they are in that process; falls in their recodification process and how they make those changes in their ordinances; asked to be reminded where they are in that process. City Clerk said the intention with the codification will be that only property owners would indeed have a single conditional use permit and businesses within that they would ask have certificates of compliance as a way of communicating to them what the expectations are; difference between those two is that a CUP requires the whole public hearing process, a couple months time, and considerably more money for applicant; the certificates of compliance are much simpler to put through; that is their goal. Glasgow asked when the balloon season started. Staff thought they were ready to go. Glasgow's concern is that if they start the process once again, planning commission, public hearing, they are going to lose 30 days. Nagel said essentially on May 6 the PC will have to meet any way to go over the Comp Plan; they could put it on for May 6 and be ready to go May 20; PC could also have a public hearing on May 6 and they could possibly meet May 7 to approve the PC's recommendation at that point. Glasgow asked if it cost more to provide them a temporary permit – 60 day. Zeller said they have never done that. That was Nagel's thought that instead of doing their special meeting on May 6, they could do it on May 7 from 4:30 to 6:00 just to put that on the agenda; that way they can have the public hearing on May 6, follow all of the rules and regulations, and then approve it on May 7 assuming PC recommends it. Zeller said clearly they all understand there will be significant public comment and concerns; doesn't want to push this through and wants to make sure they are following the correct procedure they do for all applications and giving it the time it needs; understands the sensitive nature of this, but they are going to have much public input here. Glasgow's other point is if they launch one or two balloons from that site, the public comments are much more accurate instead of subjective. Zeller said perhaps they will want to do that education session they discussed. City Clerk assured them they are on track and wouldn't be rushing anything except if they opt to have a special CC meeting which would shorten it, but in terms of publication and notification, they have plenty of time to do that for PC in May so would not be a change. Zeller always willing to do what they can to accommodate their businesses and citizens; just doesn't want to create the impression they are trying to run something through. Nagel said if they moved the special meeting to May 7, they could create that impression; could do that and welcome that option; two weeks later, May 20, is the regular date of CC meeting. Livingston asked how many days notice it takes to call a special meeting of the PC. Staff would follow what is applicable for the CC and that is at least 72 hours; calling the meeting is not a problem, publishing and notifying takes considerable time. Livingston wanted to cut to the chase; by pushing everything legally and by scheduling meetings at the bare minimum time legally necessary to do whatever is proper, asked when they could have PC and public hearing and when they could have a CC meeting assuming the PC and CC voted in favor the permit could be issued; doesn't need an answer tonight because that requires some looking at, but this is primarily a seasonal business; they run in the winter too, but quite a bit less; if they as a CC meet once a month and PC meet once a month, even with special meetings now that will be three weeks away; just thinks they did make a public comment to the Jacobses they would do what they could to keep it in Lakeland; would like to see how quickly they could legally come to a decision one way or another. Zeller said they first have to give them notice an application is required, and they have to receive and accept a completed application; then it is 72 hours before a public hearing could be held, but they would need to post notice. City Clerk said they would need a minimum of 11 days from when she would have an application that she could send in to publish because it has to be published at least 10 days ahead and she has to send it in 11 days; they are on track and can still get it done; earliest she could publish now would be May 18. Zeller thinks honestly they are better off to consider moving the CC meeting or having a SCC meeting; always something that they might need and they always seem to take just a little bit longer than they ever expect it will. City Attorney said they should know that if they are going to be using Plaza property, they are going to have to have co-applicants, both the Plaza as the owner of the property and

the Jacobses or a representative of their company as the operators; will both have to be listed as the applicants. Clerk thinks they want to address it just to have it covered because Stillwater Balloon that left the Cool property is actually the same business, the same use; to her that is just a transfer to new ownership; granted the Cools kept and changed the name on it and kept that CUP so now the Stillwater Balloon is a new CUP, but the same use that the City has had forever; to her that is just a transfer to new ownership, but since they are going through the process, they want to include both just to have it all covered so it almost becomes a brand new application. City Attorney thinks the important thing to remember though is a conditional use permit runs with the property; doesn't run with the owner but with the property; when they approve a conditional use permit and presumably when it is recorded against the property, it stays with that property until the use is terminated or extinguished in some other way; if they are going to grant a use permit for Plaza property that gets recorded against Plaza property, they will have to have the Plaza owners as an applicant as well as the operators. Larsen asked Staff that they have public input time before the public hearing, and asked if there any time between the public hearing at the PC and CC there is time for public input officially. Staff said their usual practice is to close the public hearing that evening at PC. Nagel said of course that doesn't prevent them from coming to the meeting the next day. Livingston made motion that they accept the City Clerk and City Attorney's recommendation in the memorandum of April 15, 2008 and transfer the ownership from Helen Cool to Steve and Ann Jacobs and transfer launch operations; would accept a friendly amendment to that to add launch operations at the Lakeland Plaza. Craggs seconded for purposes of discussion; asked if Livingston's intent to take recommendation of City Clerk in approving this therefore launching could begin immediately. That was Livingston's intent. Larsen asked if Livingston going around the public hearing process. Livingston said no, he is doing what the City Clerk recommends which is they do not need a public hearing. Larson understands his intent, but would be really uncomfortable with that. Craggs said based on the number of individuals that were at the public hearing before and concerns raised, and the fact that the proposed launching location will be next to the residential area, important that CC have some type of opportunity for public feedback; therefore he will speak against motion. City Attorney said when Staff drafted the memo, they hadn't spoken; didn't receive memo until tonight; given again that conditional use permits run with the property and the fact that in order to operate this particular business they need a conditional use permit and there is no conditional use permit that would allow this use of the Plaza right now, the appropriate thing to do is say to the Jacobs they need to file a new application, go through the process, and this is how they are going to handle it; Staff has informed him that in the past, the City has with CC approval and without public hearing simply transferred conditional use permits when businesses have moved; not comfortable with that specifically with respect to this particular use; just not comfortable with that as a blanket policy because again, thinks they have to have the authority to record the permit against the property, and especially without the Plaza owners as an applicant, they need to move this through as a new application; they can certainly speed the timelines along as quickly as they can and they are being very forthright in accommodating whatever the potential request is and having the public hearing and considering this at their SCC meeting; really doesn't think they have the authority to do this just on motion; they have to go through the public hearing process and accommodating the anticipated application in any way possible is appropriate. Zeller asked what the cost of a CUP application was. City Clerk said \$350 fee and \$750 escrow. Zeller said as a matter of discussion respects Livingston's motion and understands what his intent is; in an effort to compromise, he is more than willing to have a SCC meeting immediately after the regularly scheduled PC meeting and public hearing, and also more than willing to take a good hard look at what the cost of that application may be given the fact they have already been through and incurred significant expense on the first application; if that is a compromise, he suggests they take it. Livingston had one question to the City Attorney asking if he is saying they can't do this because they would be breaking the law if they did; he used a very forceful word in that. City Attorney said conditional use permit requires a public hearing; recommendation here is to not have a public hearing for a proposal which he would understand move to allow a use on a different property that isn't allowed without a conditional use permit; in effect they would be granting a new conditional use permit for a new property without a conditional use permit and a public hearing; his understanding of the law is that they can't do that. Livingston said then they have been in violation of the law for the past couple years because it has been the policy of the City and written in their ordinances that CUPs are required of businesses, not of properties; when Craggs, Clerk, and he started to meet almost two years ago to go over the ordinances before sent out to an outside contractor, that was one of the things that sparked a long discussion, how they were going to treat CUPs; right now and for the next – he doesn't know how long – their old ordinances hold and they require CUPs of businesses but not for property owners; would just like to know how they reconcile that with this comment; knows he is being a pain in the butt but would love to know. City Attorney said he wasn't made aware of any of these facts until tonight so hasn't had the opportunity to review the ordinances that Livingston speaks of; he is speaking from knowledge of how the law addresses conditional use permits in general; they can certainly turn around a very quick response of the questions he has raised but doesn't think it appropriate to move forward at this point in simply transferring this conditional use permit when general law related to governing use permits wouldn't authorize this sort of transfer; maybe there is something in the ordinance and some gray area in the law he is not aware of or thinking about at this point, but he is concerned about doing this as recommended for the reasons stated. Zeller said his concern is if they are not really on solid ground; knowing there are a number of concerned citizens already on record stating how they feel about this, thinks they are setting themselves up for

failure and they will all be dragged into that; will certainly take more than 15-20 days to resolve that; respects Livingston's motion and understands what he is trying to accomplish; if they can take another 10 days and make sure they really have all requirements complete they would all be better off in the long run. Livingston not going to be Don Quixote, second to the motion permitting, he withdrew his motion. Craggs accepts withdrawal of motion. Nagel first of all commended Clerk for trying to help facilitate this process; if they were going to do this originally, it wasn't even on the agenda and they probably wouldn't even be discussing it tonight; bringing it forward, they wouldn't have seen until May at this point; thanked her for bringing it to their attention; problem has been that the City Attorney has been out of the office for a couple of days so they haven't really been able to communicate on this and get proper direction; really thinks in this case they can push through pretty rapidly; does agree that the residents probably should have some input; they certainly don't want them coming in a month or two afterwards realizing the City didn't give them a chance; if they move May 6 work session to May 7 and are comfortable with that, they could meet from 4:30 to 6:00. Larsen would like to make one comment and make it as tactfully as possible; wants the record to reflect they are not pushing this through; that is the term Nagel used and doesn't think he meant what he said. Nagel said he meant pushing it through in terms of expediting. Larsen wants it to be very clear so that people don't think they are doing that. Administrative Consultant conceded it was a poor choice of words. Livingston questioned if there is anything to prevent them from having a special CC meeting following the PC meeting on Tuesday, May 6; always stuck on Wednesday. Zeller said to remind CC that reason they were going to meet on May 6 was to address several issues, the development agreement that will take some time and the update on any information Gilles is able to obtain; nothing magic about May 7; if he has a Wednesday conflict, they can certainly look at Thursday, May 8. Livingston doesn't want to hold it up. Consensus to begin with CC meeting; if there is public comment, they are not holding those people during the work session, and then they would move into a work session afterward. Larsen asked in terms of cost if they have ever done that for anyone else. Zeller said it is clear they have done this before. Clerk wanted to clarify if they wanted to include everyone, Stillwater Balloon and Plaza; Plaza CUP first has to be changed to allow so they are really the applicants. City Attorney said the other thing that needs clarification when they talk about the previous application and whether the reference to 'they' is the Jacobs – whether they paid, the previous application was an application from the church; asked City Clerk if church paid fees and escrow. Clerk confirmed fees paid.

M/S/P (Zeller/Livingston) to establish a Special City Council Meeting for May 8, 2008 beginning at 5:00 p.m. if they receive an acceptable complete application from Stillwater Balloon moving into a special workshop immediately following. Further, that they require the \$350 CUP application fee but waive the additional \$700 escrow. Craggs asked if Zeller's motion included a public hearing at the PC meeting on May 6. Zeller said that would be the normal procedure. Glasgow would like to monitor/update progress and asked that Nagel send him email updates. Zeller called question. **Craggs, Glasgow, Larsen, Livingston, and Zeller voted aye. Passed unanimously.**

11. CITY ATTORNEY'S REPORT

City Attorney said first item under his report regards Proposed Contract for Civil Legal Services he provided tonight; doesn't expect any action tonight and would ask they review for next month's meeting; they will recall that the reason they have this is because their firm has represented the City for more than 25 years without contract; talked to Mark Vierling who had been the city attorney for that time, and he said originally the City approved his representation in the mid-1970's and continued to approve his representation and rates every single year; never operated with a contract; talked to Administrator about it who asked that he put together a contract that would extend through the end of 2009, given the City's fiscal policy on auditing its consultants; would ask they take a look at it, and if they have comments during the month, feel free to forward those to him and they will make the appropriate adjustments and hopefully have something for them for Consent next month. Zeller asked for background on document itself, is it fairly standard type agreement; normally a contract they would have him review and maybe should have the City Engineer review this time out of fairness; relatively standard document they all should review and has asked Nagel to review as well. City Attorney said this contract very similar to contract they have with Woodbury and Bayport; some terms have changed only because they have a five year contract right now with Woodbury where he believes they are in the middle of a 5 year contract with Bayport; obviously rates have changed to reflect the rate, but everything else remains similar including the best practice initiatives, the matters they will handle, matters they will filter out including bond matters like their TIF project where they are using Briggs and Morgan on conflicting matters; any matter that is covered by insurance they can forward to the League; very straightforward and shouldn't be anything that causes them any surprise but again, if they have any questions about anything he has included, they should let him know. Zeller said term of agreement he sees fundamentally one year which was confirmed it is for 2009. Glasgow asked if it wouldn't be better to extend contract to January 1, 2010 when they normally renew contracts. Clerk confirmed appointments effective January 1. Glasgow suggested they have at least until the middle of January. Livingston asked the current rate for general legal services per hour. City Attorney said \$130/hour; flat rate of \$135 per meeting regardless of how long.

Clean up Update – 16078 6th Street North

Two months ago, Mr. Cook appeared before them for purpose of giving an update as to the cleanup of his property; property was in disrepair and they filed action in District Court and wound up with order directing Mr. Cook to either clean up the property or the order allows for the City to go on the property, clean it up, and assess costs back to him or the property owner; when he appeared, he indicated that he had a dumpster and he was taking care of the property; in the last two months, they noted there was some progress made; thinks dumpster was filled at least once; now offsite and Staff have confirmed the condition of the property is still problematic to the point where he has talked with Staff and they are recommending that additional cleanup be done and that the City hire a contractor to clean up what is necessary and assess costs back to property; thinks they had suggested in a previous memo that the CC approve an amount not to exceed \$2,000/\$2,500 to do cleanup work exterior only; last week they knew the property was in foreclosure and not sure if the sale has happened; believes it has and in redemption of six months; at some point a bank or lender will end up with the property; only reason he brings this to them is this property has had a negative impact on the neighbors in that part of the community; in their estimation or view, it is not particularly fair for that neighborhood to suffer the negative impact/condition of that property; in most cases they wouldn't even bring this sort of thing to CC, but this is an extreme circumstance and the property needs to be taken care of as soon as reasonably possible. Clerk said the initial complaints were exactly the same complaints they have had recently; first complaint came in 1996, so this neighborhood has been waiting a long time. Larsen curious if buyer who purchased would buy as is and be responsible for cleanup. City Attorney said it has gone to sheriff's sale and there is a six month redemption period after that sale occurs; current owner is still on property but it is going back to the lender; from time to time a lender gets the property back and it is possible to work with lenders to get the property cleaned up; problem generally, and this is a problem with the foreclosure crisis they are in, is that there is such a bureaucracy with the large lenders it takes a very long to get through to anyone and get lenders to understand magnitude of the problem; they can look at this and say they haven't done anything or there has not been progress out there since 1996 and they have been receiving complaints for that long; they have a court order in place which allows the City to take care of it and assess costs back; once they do that, those costs will be assessed against the property regardless of whether Cook owns the property or a lender owns the property; this probably the best way to move forward; other alternative is to simply deal with a lender which will keep them moving down the path they have been on for several years; suggestion to clean it up and assess back, and the lender can pay the cost.

M/S/P (Craggs/Zeller) to authorize an expenditure, not to exceed \$2,000, to clean up the property at 16078 6th Street North as soon as possible. Craggs asked if there were any access issues as in when they hire a contractor and the contractor needs some sort of permission to have access to the property. City Attorney said they have the Court Order that specifically allows the City and/or its designate access to the property; effectively there can be no trespass claim against the City; question might come up whether the contractor will require that the City indemnify it for work to be done; those are issues that can be worked out with the contractor; if they need to involve the Sheriff, certainly they can and it might make some sense. Zeller thinks additional communication to the property owner that they have taken the action that this is happening and when it's happening critical. City Attorney thinks what they will do is notify the property owner immediately knowing that the work will probably not start for another couple weeks; if they at least put him on notice the CC has taken action and that they will be trying to make arrangements with him to have the work done, and if they can't make arrangements with him, then the work will simply take place. Administrator said they would get a couple of quotes and take the lowest one. Zeller called question. **Glasgow, Larsen, Livingston, Craggs, and Zeller voted aye. Passed unanimously.** Staff reminded one the open book meetings is tomorrow evening; third on April 24 and final one on April 30; these open book meetings are being held at Oakdale and where property owners from Lakeland properties need to go to question their assessments; other date is Spring Clean Up Saturday May 3 at Valley Baptist Church from 8:00 to noon; Aggregate Industries will be open during those hours as well and there will be an e-waste pickup for Lakeland and Lakeland Shores residents; site will actually be located in front of Lake St. Croix Beach City Hall (County project).

12. ADMINISTRATOR REPORT

Nagel confirmed work session set; met earlier with Diane and Simon Wirth regarding Comp Plan; has assigned Diane and Simon the job of actually finishing up the first part of it; Recording Secretary will type up and process, and then they will try to wrap up remaining pieces; May 6 will be public hearing on Comp Plan at PC meeting; Gilles working with WMO to get maps and doing some of them; will end up have to borrow or buy a few from the City Engineer as well; at that point after the public hearing, they will wrap up with the maps and start looking at some of the things they missed or could add; by the end of June they send to all the other entities so they have about six months to comment; thanked Wirth for all her hard work as well on this. Zeller said St. Mary's Point completed their plan, total cost \$30,000; regarding costs, Glasgow to his credit has raised the issue with him and he would like to raise it as a CC that the Administrator is having to delay other work and even delay this work a little bit due to the current number of hours they have allotted for his services; now that they are coming into summer, he might have more time and they can appropriate some dollars for the summer months. Nagel said he has split out his hours on the Comp Plan so running about 11-15 hours per week; for last month has been expending most Saturday mornings just writing Comp Plan draft, but has been splitting those costs out there as

well too; something he wanted to take up with Niedzwiecki at some point to see where they might go and what they might do with it; won't be that much more and significantly less than \$30,000. Zeller mentioned no discussions for two or three months in regard to recodification; need to insure they are allotting enough time and energy in dollars to his effort so they can continue to make quick progress. Nagel said maybe the idea would be for he and Niedzwiecki to meet; he needs to talk to Gilles about some other items too and let them know where some of those dollars might come from, and then they can make decision as to how much they want to add into that. Zeller would personally like to see that on the agenda next month. Craggs said some additional information that might be helpful is if the Administrator would give them a sense of an order of magnitude as it relates to activities over the summer; from what he understands, he won't be teaching this summer. Nagel confirmed he is on sabbatical now, and what is going to happen in August is he will go back to the real world teaching young minds in small business management; in that case, he will probably end up doing Tuesday, Thursday, and Saturdays. Craggs continued that having more information in terms of what Nagel thinks he can accomplish this summer if he were allocated more time and dollars is the only reason he is asking. Nagel said will be busy summer for them as CSAH 18 Project commences. That was Glasgow's point is that this is the busiest summer that Lakeland is ever going to see that he can remember for CC, Staff and him; one thing he doesn't mention is that he is attending the Alliance meetings and spending additional time and they are taking advantage of him; might be alright for Nagel, but he is an asset to the City and Glasgow wants to make sure he is compensated. Zeller said whether contract or regular employees they want to pay people for their time. Glasgow said once again they wouldn't be to this point right now without Nagel; his guidance has really moved all projects along. Zeller wants to insure they are not delaying projects either. *[Secretary's note: Diane Wirth commented regarding Comp Plan.]*

13 COUNCIL MEMBER REPORT/Craggs

Deferred to Administrator to go over memorandum in packets with recommendation and request for action. Administrator recalled City allocated \$25,000 this year to begin renovation of their parks; goal here was to select equipment different than currently present at the Afton-Lakeland School; the Parks Advisory Board talked to residents about what they would like to see in Humphries Park; equipment to be installed in Humphries Park is called the Intensity Series which focuses on building the upper body strength; playground equipment includes equipment, removal of obsolete equipment, wood fiber, recycled plastic border, installation, freight, and tax; in keeping with City's recently approved Fiscal Policies, he contacted other vendors suggested by the Parks Advisory Commission to see what these companies could provide for \$15,000; equipment provided by vendors is comparable in both quality and service, however, price quoted by Clearwater Recreation based on 2007 pricing, a 5-7% cost savings and includes removal of the existing equipment and installation of new equipment; written price quotes recommended by the Fiscal policies does not apply well in this circumstance because a budget is provided to vendors and selection based on comparison of types of equipment; Matt Kline will assist Craggs in working with Parks Advisory Board going forward; they can get equipment within 30 days. Larsen asked how large an area Humphries Park is. Craggs advised 34 x 60.

M/S/P (Zeller/Craggs) to accept the recommendation of the Parks Advisory Committee approving the expenditure of \$20,695.40 to Clearwater Recreation, LLC for new parks equipment to be installed and obsolete equipment removed in Humphries Park. Zeller would respectfully ask as part of his motion if they could provide some additional insight on where balance of 2008 funds might be spent; would like to see remaining funds allocated to one of the other three parks implemented this year. **Craggs, Glasgow, Larsen, Livingston, and Zeller voted aye. Unanimously approved.** Craggs looking for direction from CC as it relates to the beach; they can give it some thought or provide him some feedback; Long Term Improvement fund has balance of \$22,071.59; he would like to get some feedback from the Parks Committee as it relates to the beach. Zeller doesn't mean to throw that on Craggs' plate of things to do; actually there was a significant amount of work done last fall when they had to do their emergency cleanup; Lee and he attended a Protecting the St. Croix River Conference today; WMO has some resources out there that they have already tapped into; doesn't necessarily need to throw that one on him; thinks what they are looking at is erosion control; have already made some cleanup efforts but they are also looking into putting in some pavement, removing the remainder of the stumps, and creating a parking area. Administrator advised City Engineer came up with some costs for paving the road down there and he has some concrete costs and costs dealing with the pathway, doing the beach, and doing some of the erosion control; will forward to all the CC members. Zeller thinks that first phase, but dealing with ongoing maintenance or any additional improvements in two/three years they should address; thinks erosion control and parking situation is probably obvious place for that money; if they are talking about paving, the citizens down there expressed some interest in paving that road; asked if anything they could put out for bid at the same time they are doing everything else; they certainly have money for parking lot portion of it. Gilles said plants will not work as erosion control. Zeller noted recommendation when they were working with Melissa was a combination of rip wrap with some planting in the rip wrap and that was specifically what the grant was for; agrees with Gilles they need something more than plants; also by doing the rip wrap and bringing the elevation back up, they get that cover back under sand. Craggs noted in response to the concerns as it relates to safety in some after dark activity at Cully Park, he was going to ask if the Public Works Department could take a look and assess what the cost would be to add more lighting and come back to the CC with recommendations; right over the

parking area would be his recommendation based on his limited review. Gilles said one thing about the beach that they would need this year is a piece of equipment for tractor. Zeller has one donated.

14. COUNCIL MEMBER REPORT/Glasgow

Had opportunity to speak to the Sheriff at the Washington County Board Meeting about Cully Park and all of Lakeland's parks; one of the things he didn't realize is fines double in the park for alcohol and drugs; they discussed the easiest way controls work which is limited; two things they need to do right away is lights and signage; need very definite signs that indicate the park is closed at a designated time; other thing they should put in all four of their parks is designation of alcohol and drug free zone which also enhances attention of people using the parks; those are very inexpensive things to do with their parks; other thing is lights, and he would suggest holding off on the playground equipment until they get lights in there; otherwise they are going to experience vandalism especially in that park because it is secluded; to protect their investment they should look at lights especially at Humphries. Administrator said it will be about three months before the playground equipment arrives. Glasgow's recommendation is at the same time or just prior to they should see if they can get those lights in; thinks once they install lights and signs in Cully Park, that problem will go away; last year he worked with a homeowner who called him constantly; he would call the Sheriff because resident was afraid of constantly calling the Sheriff and the kids might retaliate; Sheriff did go in every time he called. City Attorney said to install signs would not require CC action. Glasgow continued he went to the Washington County Board Meeting, the reason he was absent last April 1; listened to the .25% in sales tax; what he took out of that meeting it isn't the .25% sales tax that is the problem; they are on the hook for 10% of all costs incurred with the Joint Powers Agreement and there is no cost; out of the 100 votes for the Joint Powers, they get 7 which means they basically don't get a vote; was disappointed the Board passed it but the best comment of that evening was one guy stood up and said he wasn't a very good businessman but they are giving this Joint Powers \$5M, they are giving you \$1M back; he continued they should give him \$5M and he will double it and give them \$2M back. Last Saturday he went to the State Tax Cut Rally with Commissioners Kreisel and Pulkrabek; it was quite a good rally, informative of how the State taxes are being raised constantly; thinks figure 30% since 2002 but State budget has gone up; there were 5,000 who attended on a snowy day. Kathy Cinnamon came to their last Cable Commission meeting and talked to them about rumors of changes, and if they remove their franchise fees they could lose their Access Center; that has all been put on the backburner and there is nothing going on right now; could have lost quite a bit; next meeting they will have a Comcast representative speak to their concerns about Cable; still don't have access for all residents in area so they will see if they can't get that straightened out; next meeting May 7 at 6 p.m.

15. COUNCIL MEMBER REPORT/Larsen – No report

16. COUNCIL MEMBER REPORT/Livingston – No report

17. MAYOR'S REPORT

Referenced earlier that he attended Protecting the St. Croix River Conference today at UW-River Falls; found it to be an interesting day; incredible amount of data provided regarding phosphorus levels and history of the St. Croix River and the Scenic River Act which is coming up on its 40th year anniversary; great deal of information distributed and thinks some really positive results can come from that data; they are working on an implementation plan now, but thinks Lakeland will have opportunity to move faster than other organizations can; they can use their data and start implementing their own small contributions to that larger scale problem of the River being on the endangered rivers list; great conference and he will do his best to share as much of that information as he can in a short period of time.

18. ADJOURN – M/S/P (Craggs/Livingston) to adjourn at 8:29 p.m. Craggs, Glasgow, Larsen, Livingston, and Zeller voted aye. Passed unanimously.

Brian Zeller, Mayor

Kate Piscitello, Recording Secretary