

CITY COUNCIL MEETING
Tuesday, September 15, 2009

CITY COUNCIL PRESENT: Richard Glasgow, Bob Livingston, Brian Zeller

STAFF PRESENT: Jim Gilles, Matt Klein, Mark Nagel, Tom Niedzwiecki, Nick Vivian, Chris Wallberg

OTHERS PRESENT: Al Bergevin, Valerie Jones (Community Thread), Chris White

1. **CALL TO ORDER** by Mayor Zeller at 7:00 p.m.

2. **PLEDGE OF ALLEGIENCE** was said.

3. **CONSENT AGENDA** – Zeller noted Consent Agenda precludes the original agenda due to changes or additions that need to be made - one, a resolution suspending the parking ordinance for a charitable event added as Item F on the Consent Agenda; since two Council members absent and a couple of the items more substantive, he would appreciate postponing those items until the October meeting when they have a full CC and have opportunity for full discussion; that would likely include Agenda Item 8 and 9; would like Gilles to have some discussion about the Bobcat this evening but any action delayed as he would rather take up with full CC. **M/S/P (Livingston/Glasgow) to approve Consent Agenda Items A – F, delaying present Agenda Items 8 (Planning Commission Options Status) and 9 (Right of Way Ordinance) until the October 2009 meeting.** Livingston noted on Agenda Notes, notes on 7 are actually regarding Agenda item 8 and 8 should be in regard to Agenda item 9. **Glasgow, Livingston, and Zeller voted aye. Motion approved.**

**A. Minutes of the August 18, 2009 Regular City Council meeting & September 1, 2009
Special City Council meeting**

B. Treasurer's Report

C. Bills to be Approved

**D. Resolution approving the application by Gloria Phillips for variances to replace
Failed septic system at 569 Quixote Avenue North, recommended by PC**

E. Adopt DNR/Metropolitan Council Water Emergency and Conservation Plans

F. Parking

4. LAW ENFORCEMENT REPORT

Livingston reported 87 ICRs processed during the month of August; down significantly both from the last year and July; no particularly interesting calls, but a couple that again he has no idea what the code means but will try to find out; total of 11 citations issued – three of them were water related that should still be a significant portion during September and then should start to go down; nothing that he sees as odd or very serious.

5. PETITIONS TO THE COUNCIL

Jim Space, 1109 Quixote Avenue North. They are common neighbors; his northerly border is the border of the park; he bought in May 2005, and since that time, there has been a deterioration of the northern area represented by a lot of sedimentation and water running down into that area that is supposed to be protected by the black material for retaining soils – filter blanket; it is quite a mess in there and really polluting the Saint Croix River; they also have some beautiful trees that are going to lost unless something is done in the way of protecting them - either a rock border like what has been done to the north and several other areas for those who live on the River; just to the north of this, private parties have implemented some plain old rock barriers, very simplistic but they are holding the trees in place and the roots are not covered; has series of pictures that will graphically show how deteriorated this area is; Nagel also walked this common border with him down to the shoreline and there are old fence posts in there and he ventures to say it hasn't been maintained all of the five years that he has lived there and would say probably longer; fence posts post a hazard to the public and they should be removed; there is filter blanket in there that is half covered, half uncovered; sanitary area has now been removed, the toilets, but there has been a gully in there 1-1.5' deep right where the public walk is located; what is causing that is Quixote Avenue North; Quixote Avenue is draining all the way to the park and is natural drainage and is as it should be, but he thinks many things could be done with that area, a ponded area, rock, many different options available to the City; would like to volunteer to join up with the Parks System to work toward potential solutions to these issues. Zeller offered his apology as Space may not be aware they did apply for a grant two years in a row and they have designed a remediation plan for the beach and for the restoration of the shoreline; that is a plan on file they can certainly share with him; through the WMO, Great River Greening, and the City Engineer, they have spent considerable time and effort and they do have a plan that has been developed; it is budgeted and something he would hope would take place this year but more than likely will take place next year. Space asked for a timeline for those improvements. Zeller returned he had hoped it would happen this year and would expect it would happen in the spring. Space asked if anything

in that plan to protect the River in the meantime from this erosion that is occurring and dumping sedimentation directly into the River. Zeller said none. Space is also concerned they are coming to the end in the City's budget year. Zeller said it was an individual line item in their budget, so money that has already been established and set aside. Nagel said it is a 50-50 grant they are shooting for; total of \$50,000 as well and would be happy to share the City's plans or send him a copy of what they have in mind; haven't been able to do much of anything down there because anything they would do has to be approved by the DNR, Army Corp of Engineers, and a number of other people and that really was the problem with this situation as well; PCA had provided money to Great River Greening for this project, and then due to budget concerns, they yanked it back and gave it to someone else; otherwise, they would have done the project this year; as he understands it, the WMO is looking at another funding source and they are hopeful they can pick up some more dollars for that next year; as the mayor indicated, that is in the budget for 2010 and can be used for that. Space said they have a bunch of trees down there that can yet be saved; in another year or two he doesn't think they will be able to be saved because roots are so bad. Zeller will be happy to get him a copy of the plan and then Bob Craggs who isn't present this evening is in charge of Parks; if he wouldn't mind, he would direct him to contact Craggs; would be the best person to talk to about it. Space will definitely be talking with him; right now he thinks they can still save some beautiful trees down there; if they have any funds at all, just to build up some rock barriers around that bunch of trees. Nagel suggested they have Kathy Widin take a look at it when she gets back from vacation. Zeller said candidly he hasn't seen any reference to that; to think about it they have had the Army Corp down there, they had the DNR, the WMO, Great River Greening, and the City Engineer, so between those five organizations they probably have enough field data to address it. Space said the second part of the issue is that he has been cited with a violation of recreational vehicle parking code for lack of a better terminology; his basic question is he has a map and he parks the RV and it fits within the confines of Code; Code says you can have up to 35', he has a 33' and he is requesting what they are looking for; has winter parking for the RV so it has permanent offsite parking, but when he uses it, he comes and goes out what he considers to be his backyard, street side; this is the logical parking area; this is where concrete driveway is, where his side parking is, and he has a diagram he would like to show the CC members to make it easier for them to understand what he is doing [referred to River and his home and approach on concrete driveway]; he has had it parked either on the concrete driveway or on the side; 33' in length; when he parks it on the side, it is over 20' off the mainstream. Zeller asked if he understood Space to have had conversation with the City's legal representatives as well as the City Administrator. Space has talked briefly with the City who was not at liberty to talk about it, the reason he is coming before the CC; in all fairness with the CC, what took place was he was given written notice but never received the written notice; at soon as he received notice from the Court, he immediately came to talk with the City Clerk and got a copy of the letter and immediately reacted to it by (1) taking care of some piles they felt was too close to the street, and (2) he offered if this position of the RV was not acceptable, he would move it to his north property; this is not a normal lot; most of the lots down there are 50'; this is a 280' lot so he has five times the normal area of any other lot down there; with that, he can't imagine why they can't come to a reasonable conclusion as to where there is a reasonable place to park that RV in. Zeller appreciates his bringing it to the City's attention and he will follow up with Staff and CC, but there isn't anything they would be able to do this evening other than the fact he brought it to their attention and they are now aware of it. Space apologized again for his cell phone ringing; still would like to work the Parks on getting that common border cleaned up; he has implemented on his part, as he told Nagel, that he has started cutting down all the dead trees and they will be down within 2-3 days; received vegetative cutting permit this morning; looks forward to working with Parks.

Al Bergevin, 703 Quinnell. Had a near accident this morning and this is the third time in the last month on 5th and Quixote; you can't see around either corner; should either be trimmed or maybe a stop sign put up; he suggests a stop sign put up facing the River. Zeller said Livingston and Gilles will talk and connect on that issue.

6. COMMUNITY THREAD PRESENTATION

Valerie Jones, Executive Director of Community Thread. Name is a new name for them; they are formerly known as Community Volunteer Services and Youth Centers; hopefully they understand that Community Thread is a big improvement for them and she is very excited about that; their new name better reflects who they are and what they do for the Community; they believe that every act of service is a thread that ties people, communities, and lives together; their mission, vision, and programs have all been the same throughout the course of their name change and she will talk about those in a moment; wants to thank them for the opportunity to be here and share with them and the City's residents what they are doing in the Community; today their mission is to promote, support, and encourage volunteers in the Community; they have been doing that work since 1967; they do this through direct and indirect services and programs, and their vision is a Community ultimately where people care about each other; that is what their programs are designed to inspire; they coordinate six primary programs and services and those are the Volunteer Center which is both a physical place and a virtual place where people can go to find opportunities to volunteer and get connected to their communities, their Transportation Program engages the assistance of volunteer drivers to take people to and from medical appointments; the Neighborhood Service Exchange is a member based barter program where members exchange services and she knows they have a couple Lakeland residents who are members of that neighborhood service exchange; the Medical Reserve

Corp is a partnership that they work on with Washington County and is a group of trained oriented volunteers who are prepared to respond in the event of a Public Health emergency whether that be the H1N1 flu virus, a bigger disaster of some kind, they have a group of volunteers who are ready to respond with the local governments and the County; they also coordinate the Holiday Bureau which is a seasonal program where they match people in need with sponsors just to provide a little extra holiday support; finally the Bayport and Stillwater Senior Centers are the last programs; sent information to each of them in June about their programs including their annual report, so hopefully they have had a chance to go through that information; also included some services statistics so they can see how productive they are within the Community and just wants to share with them that financially \$.92 of every dollar they raise goes directly into programs and services that benefit people who use them; they are to the best of their knowledge the only independent nonprofit senior center in the area; most others tend to be operated either through community education or through the cities themselves; pride themselves in being able to maintain their independence and offer quality senior programming at a very reasonable rate for residents in the cities in the area; have very active Lakeland contingent who is working with the Afton-Lakeland Elementary Schools doing a very special program through the Bayport Senior Center using a game of cribbage to teach math skills to fourth and fifth graders; they go on a weekly basis into the schools and volunteer using those math skills; take great pride in being able to meet the needs of the Community and they do leverage every resource they have to do as much as they can with it; their organization understands better than many the need that people feel to be connected to their communities, so tonight in addition to asking for Lakeland's support, they also offer the opportunity to partner with them as they do their work as City leaders; hopes they will consider them as a resource, a place they can turn to as they have questions about human services in the Community, or opportunities to promote Community engagement; they believe they contribute greatly to the safety and wellbeing of residents in the Community and throughout all Washington County through some very special programming such as the Senior Safety Day and Fall Prevention Workshops and most notably a partnership with Washington County called the File of Life; this is a packet of medical information that seniors or others can have in their homes; about 1.5 weeks ago, they heard a story from a Woodbury firefighter who was responding to a medical call where all the symptoms presented as a cardiac arrest; they happened to look up and see the File of Life on the refrigerator, read that information, and learned that the patient was diabetic; File of Life resources is very helpful when responding to medical emergencies and they are happy to provide those for any of the City's residents who need them; also contribute to a safer more vibrant Community through their Special Services initiatives; they are coming up on fall and one of their initiatives is the Rake a Difference initiative where they pair people who are willing to do fall yard cleanup with people who need it; for residents in the Community who are in need of assistance raking and cleaning up their fall leaves, please give them a call and they will see if they can find a group of rakers to come out and take care of that fall cleanup; they also do a fundraiser service based community service where they do 10-12 different service projects throughout the County one day in May; appreciate any and all financial support that the City might be able to provide and hope if they can't do that, they at least connect to them maybe by the newsletter or Lakeland website providing information about their resources and any other way they can be helpful to the City; happy to entertain any questions they might have about their services or programs. Livingston asked Community Thread's relationship with Washington County itself, specifically emergency preparedness folks. Jones responded they are the contracted volunteer management arm for the medical reserve corp.; when the mandate came down from Homeland Security for counties to establish a group called the medical reserve corp., Washington County quickly realized they don't have the expertise in volunteer management; that is what their organization specializes in; Washington County contracts with them for those services and has since 2004. Livingston has a special focus in what they are doing for two reasons (1) thinks the relationship between County emergency services people and organizations such as hers are critical and he absolutely agrees with her on that, and (2) thankful he is the only person at the table there who is actually an actual approved senior citizen; does appreciate some of the things they are doing there; asked what they are doing specifically, knows at EPAC they had the program last year on the flu preparedness but they have their meeting on the 17th, he doesn't know what is coming up now; asked if they were doing anything with seniors in the Community in terms of H1N1 preparation. Jones said they have much information available on their website if you look specifically at the Medical Reserve Corp. program; includes tips and information like that; also working closely with the Washington County Emergency Management Department and the Public Health Department both to make sure they are providing accurate information to the Community; Stillwater Senior Center is hosting a flu clinic where the generic flu vaccine will be distributed; in the event they need to be a site for the H1N1, they can do that. Zeller noted at one of the Alliance meetings where the five communities meet down at the Fire Hall, they introduced information on the File for Life; warmly received and thinks they passed out and made them available; one communication tool through the Alliance meetings that take place on the Monday following their CC meeting (4th Monday of the month at 4:30 typically); Glasgow actually chairs those meetings; other thing is maybe there is an information component they can include in the City's newsletter regarding the couple of events they have, the spring in-service and Rake a Difference Day because maybe they need volunteers or they are looking for locations who need the service; Wallberg would be the person she would communicate with; something the City could extend to them from a communication standpoint. Nagel also mentioned there really isn't anyone on the Board of Directors from this end of the Community. Jones said this is a perennial challenge for them; they elect board members

every year; would love to have greater representation through the County and they are just starting recruiting season right now so about three spots on the board to fill; if anyone is interested, they can call. Livingston mentioned perhaps misconception that folks in the middle of the County aren't represented. Jones said they might be located in Stillwater but the majority of their programs actually have service on the far north end and south end of the County so they do get around; will check her schedule and give Glasgow a call in regard to the Alliance meeting next Monday.

7. REFINANCING 2004 WATER REVENUE BONDS

Drown had a couple of financial housekeeping items – the potential to refund some Water Revenue Bonds issued in 2004; built a water tower with much of the proceeds of that as he recalls; issue carries an interest rate of about 4.25% which practically speaking is a relatively low interest rate, but in the current market, there is at least the potential to look at refinancing that to lower future payments; not a whole bunch; bringing out the biggest bag of tricks they can find, they could probably achieve an interest rate of 3.50% that means over time they would save \$9,000 over about 15 years; if they think what that is worth today in terms of cash in the pocket, it would be worth about \$50 grand so doing \$1.5M bond transaction to refinance it, payoff the old ones and the new ones at the lower rate, and save dollars worth in today's dollars of \$50,000; not a fantastic refund from a savings prospective, but on the other hand, \$50,000 is \$50,000 and very unlikely that a strategy to wait until things look a whole lot better offers an upside; thinks it reasonable for the CC to decide whether or not it makes sense to look at doing a refunding transaction like that; savings are net; the way these things would work is that the new bond issue would provide enough funds to pay off the old Bond issue plus all the transaction costs; actually start off with a little more debt outstanding with a lot of lower payments and end up making more money in the long run; it incorporates about \$35,000 in transaction costs; even covering those transaction costs, bottom line present value savings today is about \$50,000; the initial five year prepayment penalty goes away February 2010; if they restructure that debt, they will reset the prepayment penalty period (5 or 6 years); the other thing if the CC wants to look at this that they will do as part of this process is looking at their financial statement, it looks like there is some cash left over in the debt service fund that can't be used for any other purpose other than this debt; fairly likely looking at the numbers they could take some of that cash and use it to end up with less debt outstanding; investment yields are now pretty low. Niedzwiecki did rough calculation when talking to Gilles about potentially how much they can get from the Water Construction Fund; if they can pay down the two bonds, the highest cost ones for a total of \$240,000, if they can get \$200,000 from the Water Construction Fund and the rest of it will basically come from the Water Debt Service Fund, they can avoid increasing their user fees which are scheduled to go up in 2011. Drown noted Niedzwiecki just suggested if they put a fair amount of cash into this thing they might shorten the deal a year; normal approach would be if they have 15 years left they would refund it with 15 years. Nagel thinks the idea would be to avoid the 2011 step. Zeller asked when the last time was when they had a user fee increase. Gilles said in February 2008 there was not an increase in the user fee but the amount for the water infrastructure. Zeller thinks it important to mention this impacts the Water Utility Fund, not the General Fund; savings is savings no matter what fund. Nagel thinks resolution does two things here, Drown can explain the credit finance program that helps them through the Public Facilities program, but the other thing there is they are not selling them now; basically the resolution is approving the issuance with a couple of contingencies and he would be working with Niedzwiecki and Gilles to see if they could at least immolate that situation in 2011 and then when Drown thinks it is the best time to pull the trigger, he would come back to the Mayor and him and they would have to sign off on it; essentially authorizing the purchase of them, but waiting until the best time to do that. Drown thinks that is a fair way; idea here is this deal operates on a pretty thin margin; fluctuations day to day will have a fairly dramatic impact on it; advantage for him to be able to stay light on their feet and move quickly; only way to do that when they have monthly CC meetings is to pass a trigger resolution; basically the CC gives itself and Nagel the ability to say if they achieve at least a certain amount of savings, they are authorized to sign a purchase agreement and then the deal comes back to the CC at their very next meeting to ratify everything; gives them ability to market mode lock into interest rates fairly quickly for them; key is if they don't save a target amount of money, the Mayor and Staff don't have the ability to sign it; suggesting they shoot for a little below \$50,000; \$50,000 present value savings makes sense, \$45,000 probably does too so it allows the market to move a little bit; one of the good points that Nagel alluded to is (1) the only way this makes sense is if it gives them a fairly low interest rate is that they would take advantage of a program fairly new at the State in which cities issue bonds for utility projects, drainage projects, or sewer/water projects; State, for a \$500 fee will slap a State guarantee on their Bond which if for some reason they weren't able to make their Bond payment, the State of Minnesota will make it on their behalf; means the Bond holders are basically buying Bonds that are guaranteed by the State of Minnesota that means they get rated AAA, the reason they are talking as low of an interest rate; for \$500 is a good deal; probably the reason this refunding makes any financial sense at all; to do this they will be participating in the State's guarantee program and this resolution authorizes them to submit paperwork to do that and it also means they will be getting a Bond rate; when you do rate, the fact that the Bonds are AAA they can command that price in the marketplace; world is changing in the Bond world interestingly enough; in the old days it really wasn't worth the effort for communities the size of Lakeland to get rated and historically they have never done it; that is changing quickly and the value of a credit rating is becoming more important as the Bond market becomes more concerned about credit quality; the other thing that is happening is Standard

and Poor's is starting to recognize small communities never default on their Bonds whereas General Motors that may have rated double and triple A left the Bond holders in a lurch and S & P is starting to recognize the small communities are actually pretty good credit risks; probably talking about an AA credit rating even without the guarantee; that is worth the price; they will save much more money than the cost of that fee by getting it; doing three things in the background – making sure that if there is extra cash that they can use to pay off debt, they will take advantage of that to do that as part of this transaction by using the State guarantee and getting their Bonds rated; if they can make that whole deal work and it saves them \$45,000 at least, hopefully more, they will have the ability to move forward; if they can't, then this deal cancels and goes away at the end of the year. Niedzwiecki noted possibly some tiny issues if they are taking a look at the Water Construction Fund and they are just not ready to pull the trigger on paying off, taking \$200,000 out of that, could they go ahead with the refunding with the exception of those two bonds and leave those outstanding or is it a package deal; if they follow the schedule, they will have \$67,000 left in the bank. Drown's guess is they will probably get another \$80,000 from Debt Service they can toss over there too; they will need to talk. Nagel said they wouldn't have to do the entire \$240,000; they could do what they thought they could afford and that would help. Drown thinks the answer to Niedzwiecki is do they have the ability to call almost all of the old Bonds except for the \$240,000 that hangs way out on the long end, yes; does it make financial sense to do that, maybe; will have to weigh pros and cons; thinks if the CC authorizes this move forward, thinks it is done with the understanding there is some flexibility here and that something like that ultimately makes sense with the understanding of the CC is that if the Mayor and the City Administrator are convinced that makes sense, they have some flexibility to move forward with full CC ratification later on. Zeller suggested they move forward with resolution with understanding there will be coordination with the City Treasurer and Administrator and as part of that, he appreciates just a little bit more detail on the soft costs associated with the transaction; if Drown could provide that to the two of them, they don't have to get into that this evening. Drown will work out a schedule, about \$35,000.

M/S/P (Zeller/Livingston) to adopt Resolution 2009-27, a Resolution approving the issuance of \$1,500,000 G.O. Water refunding Bonds, Series 2009A; covenanting and obligating the City to be bound by and to use the provisions of Minnesota Statutes, Section 446A.086 to guarantee the payment of the principal and interest on the Bond. By roll call, Glasgow, Livingston, and Zeller voted aye. Resolution 2009-27 adopted. Livingston mentioned the Rural Water Bonds in 2002; asked if anything in what is going on today with State guarantees, the City getting rated, make it a more interesting time to try to do something again. Drown knows where he is going; oddly enough the Rural Water program was a remedy to the dilemma that smaller communities with lower credit rating were paying a lot of money to borrow money; if you put together in a larger group, they had more of the characteristics of large communities and could borrow more efficiently; one approach that beats that, get the State to guarantee your Bonds and now you are growing the market with something that has the same credit ratings Minneapolis does and it is easy to sell and costs go down; quite candidly, the State's willingness to guarantee utility bonds for small cities is basically makes obsolete all of the advantages of the Rural Water pool financing program; as long as the State is in business of guaranteeing utility bonds, it is the best deal out there. Zeller also suspects with the lower balance, they can say with the lower interest rate is less. Drown added all that works in a direction to save money and keep rates low; everything they do in that direction helps out; CC will remember a couple of years ago they worked on a project that involved Tax Increment to help the Plaza refinance or reconstruct/remodel; drove by there tonight and it looks nice; as part of that project, they bid some street utility work on it around the Plaza, much of which benefited the Plaza; as a part of their Development Agreement with them, they agreed to accept an assessment for their share of the costs of those improvements that are roughly half; they agreed at the time they would wait a little while until the project was done until they assessed, but those assessments are suppose to be certified and start to be payable next year; in checking with Staff, wasn't sure if they had gone through the process and had hearings because those assessments wrapped up last year; checked and looks like they did not do that; in order for them to be able to certify the assessments on that project to the County for collection next year, they still have to have another Public Hearing on that project, an assessment hearing similar to what they had before the project started so that they can legally adopt an assessment role and certify those assessments for collection; to get started with that process, they can have the hearing next month at their regular Council meeting night; basically have to send some publishing notices out; aren't really issues about these assessments because the Plaza has already contractually agreed to pay them and not contest them, but the right way to go through this process is to have the hearing; as a housekeeping matter, they would ask the CC to consider a resolution setting the date for public hearing on the Assessments associated with the Plaza improvement project to be held at their October regular meeting. City Attorney said only motion needed, and Staff will draft resolution.

M/S/P (Zeller/Glasgow) to set a public hearing on the assessments associated with the Lakeland Plaza Improvement Project, i.e. street utility work, for the City of Lakeland Regular City Council meeting on October 20, 2009 at 7:00 p.m. Nagel noted time would be 6:45 and it is October 20 because they have a 6:30 p.m. public hearing and this can then be held at 6:45. Wallberg suggested having public hearings as part of the meetings. It actually helps Zeller because there are times he can't remember if 6:30/6:45; thinks it appropriate to change the time when they have something that is time consuming, but this one will probably go fast so if they are okay with 7:00 p.m., that would be his motion; called question. **Zeller, Glasgow, and Livingston voted aye. Motion approved.**

8. PLANNING COMMISSION OPTIONS STATUS

Zeller didn't know if any of the PC members present this evening heard him mention this Agenda item earlier, but with the absence of Larsen and Craggs, they discussed delaying that discussion until October; it is something they both feel strongly about and would like to participate in; candidly thinks it important decision, so he would prefer to go that route.

9. RIGHT-OF-WAY ORDINANCE

City Attorney said this agenda item can also be delayed until October; simply on Agenda for consideration; have a new project that hasn't started yet, a fiber optic line that is going to be installed between I-94, Lakeland, and Bayport; Bayport is considering adopting the same right of way ordinance; they are entitled to regulate/maintain/recover any fees or costs they incur as a result of work on the right of way; don't currently have a right of way ordinance, so if they are not going to consider it tonight, he would suggest they don't given the absence of Larsen and Craggs; if they would take a look at it during the next month and have any comments, they should email those comments to him so they can have a discussion and perhaps some action on it next month; they were contacted a couple months ago about project, and he would have expected the project to begin already; doesn't know if they have timeframe as he hasn't heard anything from the City Engineer. That would be Zeller's one concern is that the utility companies are pretty independently minded and whether they have an ordinance or not, he wouldn't be surprised if they went ahead with their project. City Attorney doesn't think it will hurt to wait; if there becomes an issue and they need to act, they will certainly have a special meeting to do that; at this time, Bayport hasn't acted on it and considering it next month; thinks it probably appropriate for Lakeland to wait as well just so they have all CC members. Zeller suggested continuity between what Bayport passes and what they will consider; would benefit all of them. City Attorney said the ordinance is largely the same; only difference when the ordinance is adopted there will likely be fees; doesn't know what the cost of that would be from Bayport standpoint as to what those fees look like; need meeting with Staff to discuss those fees just to make sure they have actual numbers there; may wind up being the same as Bayport, they may not; doesn't know the answer but as far as regulating the use, maintenance, restoration of the right of way is what the ordinance will address. Zeller would like this agenda item in October.

10. EMERALD ASH BORER SERVICES

Nagel noted proposal for Kathy Widin, Plant Health Associates, Inc. as the City Forester including work over and above what she does for Lakeland; essentially thinks they all know this is a disease that will eventually kill all of the ash trees they have if everything goes according to what they have heard and read about; essentially this proposal is 10 hours of work at a rate of \$65/hour; Widin would work with the City Public Works staff to help them identify the green ashes if they don't know what they are, and then to begin to take an inventory of them as well in terms of how many do they have and where they are located; thinks one of the big issues will be as CC identifies the trees, which ones do they want to save; there is basically a \$200 treatment every two years for each tree in order to try to prevent the growth of this emerald ash borer; will start with inventory of their own tree stock in their right of way and parks in Lakeland, and then they are going to try to do some public information as well; one of the issues is going to be is if people don't take down diseased trees, are they going to require they do that and are they going to require a certain period of time they must do that, where are they going to put it; as they all know, taking down trees isn't going to be cheap either; will enable DeCorsey and the rest of the Public Works staff to begin taking a look at what they might have on private properties as a problem too; thinks each property owner will eventually, if they have ash trees, have to decide if they want to keep them much like the Dutch elm disease they had before; those are some of the things she will put in her report with recommendations for action; in talking to administrators at the administrator meeting last Wednesday, he thinks they will be way ahead of most of the communities doing that; thinks only other community doing anything at this point is Woodbury; thinks it important they get a good start on this; starting to see it in Scott County and some of the other counties down there as well; for \$650, he feels this is a nice deal and they will do most of the work themselves and save money that way rather than have her do the complete inventory. Zeller thinks generally speaking getting up to speed on this is critical, and they need to do that; skeptical they will be able to complete an inventory as he thinks that will be a significant task but they clearly need a policy and procedure set up. Nagel agrees and they will start at the public right of way and parks first; doesn't think it will take them too long to get done; should have an information component as well the fact they have an arborist who works with the City; asked Wallberg if she wouldn't mind some mention in the newsletter because there are people who are stopping unsolicited and indicating they have a diseased tree on property and providing a bid on site to remove them; happened to him at his office in Bayport, and to his knowledge, there isn't a reported case of it yet in Washington County but they clearly indicated it was a diseased tree; educational component needed for citizens to become aware. Nagel agreed and true there haven't been any reported cases in Washington County, but assumption is sooner or later there will be; could take 3-5 years to spread but it will be here. Glasgow asked how they inventoried trees. Nagel thinks what they will do is go around and see where the green ashes are that the City owns in the public right of way; will mark them on a map so they can go back later to those identified trees; big issue is how they will help the community; situation in Saint Paul that Widin mentioned that was widespread and where this first got started, and thinks it was \$40-45,000 to take down the

trees; if they have five ash that you have to pull down, that is a significant amount of money for anyone or for the public to do that and there are no funds to be able to do that; one bait trap down at the beach; just involves the one type of green ash; other thought is what they replace them with and he thinks Widin will have some suggestions as well too. Glasgow asked if this would be good to have discussion to have at Alliance. Nagel asked Wallberg if Widin was back in the office, but thinks they could schedule for October. Zeller doesn't think the DNR has addressed this issue, so they will be ahead of the curve which is great. Nagel thinks there is only one county who has put together a task force and currently putting together an ordinance, will have a burn site available for everyone to take the trees to; doesn't think Washington County has done any of that. Zeller wondering if the gravel pit would be open to that discussion. Gilles noted the problem will be where they take the trees; may have to be a special place other than the pit; one of the other things that is out there right now is quarantine in Ramsey County. Zeller knows that once they are discovered, they want them out of there right away; if they don't have something that triggers that, it will be at each person's discretion and just spread faster.

M/S/P (Livingston/Glasgow) to allow Staff to spend up to \$650 to hire Kathy Widin, Plant Health Associates, Inc. to complete tree inventory and generate report for ash trees in public right of way and parks within the City of Lakeland; funds from Diseased Tree Fund. Zeller, Glasgow, and Livingston voted aye. Motion carried.

11. CITY STAFF REPORTS

Administrator. Nagel reported the County passed the agreement for gravel tax; they have sent the agreement for needed signatures to all the affected communities; received two back already and expect to have the remaining back by the end of October; should be finalized sometime in early November; he called it a closing, but they will be signing it all together and getting a final number that they owe for February; after that payments are all the same.

Attorney. Vivian had three items to report; first is a report on Closed Session from the August meeting; at the end of the meeting, the CC went into Closed Session for the purpose of discussion and planning the litigation/prosecution matters with legal counsel; counsel took note that showed action while making record this was done in Closed Session and returned to Open Session thereafter; second item is an update on the Hubbard litigation; as they will recall, they were before the Supreme Court earlier this year for the purposes of arguing the case; during that argument, the Supreme Court invited the Department of Natural Resources and Sierra Club to submit additional information on the question of whether the DNR has the jurisdiction to certify the variances and regulatory decisions of counsel on the St. Croix River District; that particular issue wasn't necessarily on appeal or hadn't necessarily been accepted by the Supreme Court as an issue for argument because the Court of Appeals didn't decide that issue; when invited supplemental argument, written argument on the matter subsequently, they received the Court's calendar and the Court has placed the case back on the calendar for October for argument; they received the order which they have in their packets that was filed on September 8, 2009 which provides that the Supreme Court will hear oral argument in this appeal on October 12, 2009 limited to additional issues addressed in the supplemental briefing authorized in their June 12, 2009 order; effectively the Supreme Court has decided on its own volition that it wants to hear argument on that narrow issue whether the Department of Natural Resources has the authority to certify regulatory controls decided by the local municipalities in the River District; significant because as they will recall when they began this process, that was the issue they wanted guidance on when it originally got into the litigation when the City originally supported efforts of Hubbard, the appellant; no further briefing required; no further costs to be incurred by the City for briefing or other submissions – that is all done; he will expect to attend on behalf of the City oral argument scheduled for October 12, 2009; would expect again that Sam Hanson from the Briggs and Morgan Law Firm representing Hubbard would argue on behalf of both Hubbard's position and the City's position in opposition of the DNR's authority to certify variances which is the position that is going to be taken throughout the course of the litigation; happy to answer any questions on that matter. Zeller said procedurally this is very unique from what he understands; he was happy that the arguments appeared during the oral argument, and again for people who haven't had opportunity to go online and watch that, it is a one hour clip you can watch online and see both oral arguments made by the Sierra Club, the DNR, and the River Association as well as Hubbard and the City's argument; was glad to see that come up in that argument and surprised they asked for additional written argument and even more surprised they want them back to hear additional oral arguments; he personally sees it as a positive they will look beyond the issue of the 60 day rule which was very narrow and will look at the broader issue of jurisdiction. City Attorney sees it that way too if he is calling that decision of the Court of Appeals was very narrow and related solely in the procedural action or inaction of the Department of Natural Resources; the decision really provided no guidance on the issue that the City of Lakeland was looking for as clarification; when the matter went to the Supreme Court and the Supreme Court spent most of the time questioning the jurisdictional issue, it was very positive; would agree that those who haven't had the opportunity to listen, it really is fascinating and interesting that the Supreme Court on its own initiative to indicate they would like to hear more argument is something very unique; unique and rare to get one chance to argument before the Supreme Courts; really comes back to the heart of the issue that the City wanted clarification and really the reason the City got into the litigation to support Hubbard in the first place; will be interesting to see what questions the justices have in October. Zeller asked if the case in St. Mary's Point residents are involved in have any impact on their case and/or didn't they just argue the Stillwater Bridge issue. City Attorney said the Haslund case is before the Supreme Court and being

argued the first part of October; not clear if it will have any impact on their case, but is a case involving a River community and the DNR and the department's authority to make decision. Zeller said in that case, it is another example of the City ruling in favor of the resident but the DNR didn't; somewhat similar but different issues. City Attorney said whether it has impact on this case, they don't know; to the mayor's second point, the Stillwater Bridge case was just argued on within the last couple of days; again it is a different type of case, similar players, but probably won't have any impact on this. Zeller found that interesting that the Sierra Club was against or suing the National Park Service. City Attorney continued third item they drafted a letter to the CC which they will get within the next couple of days on the Lasik matter; as they recall, Lasik had originally sued both the City and Washington County after receiving a citation for having his vehicle parked in a no parking zone and license plates not current; not matching or current; the vehicle was towed and he was issued a citation; there was a conciliation hearing a number of months ago that Lasik didn't show up and a judgment was issued against him and they thought that was the end of it; they then became aware that Lasik had appealed the case to District Court that all conciliation court litigants get the opportunity to do; he apparently was attempting to remove the entire case of both the County and the City but failed to make it at the City; they didn't become aware of any procedures in District Court because the City wasn't named as a defendant, and on their review of the case, there were some motion dates scheduled; they did some research and it was determined that he had in fact left the City off; he made a motion to the court in the City's name, and again they weren't notified on it and a Washington County Judge Gary Schurrer granted his request; the City is no longer a party to that action and that litigation from their perspective is done and over with and they will close the file on it; they will receive a final letter on it which summarizes everything. Glasgow asked the City Attorney how many cases they had in litigation. City Attorney said they have Hubbard and Breyfogle.

City Clerk – no report.

City Engineer - absent

Public Works. Jim Gilles had two things to discuss; in their packet, there is some information on the individual sewage treatment systems; County passed a new ordinance; now the cities have up to a year to either adopt the County plan by reference or write a plan of their own; unfortunately the new ordinance isn't in print, so all he has had is a draft copy; once he obtains the copy of the new ordinance in print, he will get a copy to City Hall and they can review; will be about 80 pages long, so won't take copies for everyone. Zeller said if he could just summarize. Gilles said basically there is a summary in their packets that includes the information provided at the meeting; hopefully by the end of the month he will have the actual ordinance available at City Hall. Zeller reviewed the PowerPoint but asked if that adds a new level for approval of a private sewer system. Gilles said no; basically MPCA came down with a mandate and the County had to go with the State one; can be more restrictive if they want but can't be less restrictive; changes that will affect everyone in the City is any new system will have to include a filter going out to the drain field; probably only the real thing that affects private citizens; if you start to get into the Bungalow or the Plaza, then there will be some differences; new systems may have to follow some special rules; permitting process remains the same. Discussion on septic system pumping. Gilles continued discussion on something he really didn't want to bring up because of the City's financial status, but last year with the snowplowing they keep sand and salt in their trucks, sometimes for a week; while they have seen some damage that is done, they have no way of dumping right now and getting it reloaded into the truck; the only way to do it is to go out to the County, dump it out there and lose what they drop off because they wouldn't be willing to credit it back; once they take it out, it is theirs; would like to see them get a Bobcat; looked at modifying the tractor they have with a bucket; talked to the dealer up in Stillwater about that and he indicated it isn't strong enough to do what they want to do and they are better off not doing it; they can rent a Bobcat for five months at \$800/month and with two buckets it is \$100, so \$900/month; if they were to buy a Bobcat with two buckets, the cost would be about \$27,000; reason he likes Bobcat is (1) Tri-State is just across the River and they have all the attachments you can rent from them, and (2) Bobcat has so many attachments you can do whatever you want. Zeller noted they had talked about street's sweeping and they have a different attachment. Gilles said they have two different attachments for street sweeping – can't really do all the streets but they can do the bike trail and they have a sweeper that will pick it up and you can dump it in a truck and haul away and another one called a broom where you just broom it off to the side and that works great for snow too; unfortunately with the economy, Bobcat and Tri-State have given up on their leasing programs and lease to own at this point in time. Zeller also had another idea bringing up the trucking company across the road, they have Allphase and Chaves. Gilles said Chaves uses his Bobcat for plowing. Zeller knows having their own would be much better, but as Gilles started the conversation with regard to the budget being tight; in all likelihood this would be a piece of equipment they would have for 15-20 years; asked how long they have had the tractor; adding equipment to their infrastructure he certainly understands the value of, but if there were any way they could delay that expense, they should explore the possibilities; can see where renting would be cost prohibitive because he would dislike to spend \$4,500 for 5-6 months; doesn't seem cost effective, but he would be curious to talk to those three parties to see if there isn't some type – even if they paid them on an hourly basis; Rennie has two of them; Barnes has that type of equipment too; would just like Gilles to look at alternatives and if they could bring it up at CC next month. Gilles will do that and see what they have to say. Asia Bednar, PC, asked if they have considered ryno liner – something for inside the big trucks; may be completely outside, but if the solvent is causing rust, what if they protected the inside of the trucks. Gilles said what happens with ryno liner is it is not a smooth surface

so that sand will build up and get stuck; ryno liner isn't inexpensive either, plus you are adding weight to the trucks so you can't haul as much either. Bednar also mentioned at the last meeting when she supposedly left in a huff, she didn't leave in a huff and just wanted to let that be known; if it looked like a huff, you haven't seen her in a huff. Gilles said one of the other things he has thought of is if they line it in plastic, but then you lose your capacity and weight becomes problematic; they make a ¾" plastic you can line it with, but these aren't big boxes to start with so they can only get about 6-7 tons in there; they would probably have to get additional sand more often; now that they are taking on Lakeland Shores, they will be doing more. Zeller said last year they also ran into a salt supply problem as well. Gilles thought they did okay on that; talked with the County and they are all ready for them again this year.

Treasurer. Unless someone has questions, he doesn't have additional comments on the overall financials; has been working on budgeting a Bobcat in the event they get to that point. Gilles mentioned they also need to get an ordinance set up to keep snowmobiles off the bike path on the west side; knows there is a lot of sand on the bike trail [per mayor's comment]. Niedzwiecki will continue with additional work on this as well as the Bonding issue.

12. COUNCIL MEMBER REPORT/Craggs - absent

13. COUNCIL MEMBER REPORT/Glasgow

Glasgow advised there was no Cable meeting – no present issues; no Alliance meeting because it is summer; asked Nagel regarding speed on CSAH 18, they still don't have signs up; no speed limit between the two roundabouts. Livingston said as of two weeks, the State still hadn't done its speed survey. Glasgow asked if they could call Washington County; knows speed is building up on that road. Livingston reminded that last time the State did a speed survey in Lakeland, the speed limit in Lakeland went up. Nagel will check on it, but received the same information as Livingston did; will talk to Wayne Sandberg and see what kind of language he would like to see to pass it on to the State. Glasgow talked with one of the County Commissioners and she was happy to report that Washington County has their hazardous center open; can take all computers, electrical stuff down there; has a big center where you can pick up paint for a small project; has audio visual proposal; bottom line is one came up to \$17,000, almost \$18,000, and it goes up from these depending on what they want; effectively if they go down and remove some items, the equipment rack is \$4,900 and he would suggest they remove that which would bring it down about \$3,000; they can eliminate other items and they can get it down to about \$12-15,000; with that, half of the funds would be paid by Lakeland Shores so they are looking at the City of Lakeland having an expenditure no more than \$7,000 for a pretty decent audio system; has been doing it himself for quite a number of years and he is going to have to quit due to time restraints; probably spent \$5,000 on equipment so they do need to move into something from the City. Zeller asked how much Glasgow would sell it for. Glasgow said not near what he paid for it, he can say that; would be nice because then they would have more capabilities and if they want to stream it, they can have it up on the web site so people can see it other than on the Cable system; to move this forward, he would like this brought up next month. Gilles said it was probably about five years ago when they were looking at the system; cost was about \$8,000 but didn't include any cameras. Glasgow said proposal is labor not to exceed \$750 and the hourly rate is \$30/hour; offered to help to knock that price down so they could do some of the work in conjunction with him and what they are proposing is placing it where the videographer is presently. Nagel thinks what CC should know is that according to the fiscal policies they approved 1.5 years ago, it is over \$5,000 so they will need to get two competing proposals; he will need to do that. Zeller suggested having CC discussion to insure they have a consensus of support. Glasgow thought that would move it at least another month out again; Nagel has most of the paperwork and he can just black out the pricing and send it to two people and they get it back; doesn't think there is a whole lot of work involved just to send this out. Nagel said they have to make it compatible and there are three or four places he can send it out to. Zeller is fine if they are not coming to City Hall and designing a system from scratch that may or may not be an apples to apples comparison he is fine with that. Livingston asked if Lakeland Shores has brought this before their CC yet. Glasgow said no, they just received this proposal, but thinks from what he understands from the mayor, they will approve it.

14. COUNCIL MEMBER REPORT/Larsen - absent

15. COUNCIL MEMBER REPORT/Livingston – no report

16. MAYOR'S REPORT

Next I-94 corridor meeting is Wednesday, October 7; searching his memory as he is pretty good about attending those, but sure didn't remember one; Mayor Kopesky in Lakeland Shores contacted him and asked if the City of Lakeland would consider giving them some space in the newsletter – for Lakeland Shores resident update; everyone may not know that they are in the same zip code so their residents get the Lakeland newsletter every month; he asked if that is something they would consider; he would like to discuss in October but if they could give some thought to that as well as they can't do it at no charge so they would have to figure out something that was fair if there was a consensus to allow that; has

mixed feelings about it himself. Livingston asked if they were using zip +4 – nine digit zip codes. Gilles said in their carrier route, route 3 goes from Lake St. Croix Beach all the way to the end of Lakeland. Glasgow suggested they have a one page insert they throw in and they pay for the printing and extra postage. Zeller said they will ask Wallberg and see what the cost would be; opens up a bit an issue and they do have some issues since it is a newsletter in terms of what the content is and they have struggled with that and what their business advertisers are; as much as they would like to agree not a problem, thinks they need to think it through and bring back in October.

17. ADJOURN – M/S/P (Glasgow/Livingston) to adjourn the meeting at 9:15 p.m. Glasgow, Livingston, and Zeller voted aye. Meeting adjourned.

Brian Zeller, Mayor

Kate Piscitello, Recording Secretary