

EAST BETHEL CITY COUNCIL MEETING

July 3, 2013

The East Bethel City Council met on June 5, 2013 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Ron Koller Richard Lawrence
 Heidi Moegerle Tom Ronning

ALSO PRESENT: Jack Davis, City Administrator
 Mark Vierling, City Attorney

Call to Order **The July 3, 2013 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Lawrence made a motion to adopt the July 3, 2013 City Council agenda. Ronning seconded, all in favor; motion carries.**

Ed Fiore Ed Fiore, East Bethel Citizen Representative on the Anoka/Blaine Airport Commission will be giving a presentation.

Anoka/Blaine
Airport
Commission

Ed Fiore, "I represent the City of East Bethel on the Anoka/Blaine Airport Commission. Several of the airports have advisory commissions, formed by the communities that are involved. Up until about four years ago, the advisory commission was mainly concerned about noise. So, the advisory committee dealt with the noise problems over the immediate community. That changed when the county became involved in the airport by leasing a large chunk of land from Metropolitan Airports Commission (MAC) and building a fixed based facility and then renting it to a company called Key Air."

"So, then they ran into some financial problems with their contract. At the same time they started making noise about the east/west runway. This is dictated by state statute to be a 6,000 foot runway and that got the communities heavily involved. I became involved because I had some background in the MAC. I thought East Bethel should become involved because the economic welfare of the airport will concern this community and future growth. So, I approached the Council through Jack Davis and suggested they looked at being involved. We were voted onto the Commission with a 12 to 1 vote. I serve on the Commission at the pleasure of the Mayor."

"The other thing that has now come forward is the closing of the control tower in Anoka/Blaine. When the mandatory cuts were put in the FAA did nothing about them. The union contracts required if they were going to lay-off any of the controllers they needed to have one year's notice. Obviously, they felt that sequester would never happen and they never notified the unions about the possibility of the cuts. Congress did not back down and the FAA decided to close/cut traffic control towers. We at Anoka/Blaine have a contract control tower there. The criteria they set, 10,000 or more business operations, we had the privilege of being the second highest control tower."

"The other thing is the air traffic controllers spread the landings out over the two landings, east/west and north/south. So you don't get a heavy noise over one area, as a way to control insulation of homes. If they start using the east/west runway real heavy, it is possible that the homes would need some type of insulation like in Minneapolis. The commercial base, such as Key Air sees that they are going to eventually want a controlled air tower. So there is a possibility that we may see some shrinkage in the traffic at Anoka/Blaine."

"How does this affect East Bethel? Well, if you are talking to a corporation that has a small jet, they are going to want to know where they can come in. If they can't come into Blaine because of the lack of a control tower, then they are probably going to look a going to St. Paul. There is

another operation in Crystal. They have about 60% of the activity that we do in Anoka/Blaine. Crystal requires 14 full time operators to keep the tower functioning the same time the contract tower needs nine. I hope the FAA wakes up and gives us more funding and opens up a few more towers.”

Moegerle, “Have you contacted any of our Senators or Michelle Bachmann?” Fiore, “No, Michelle has four airports in her division. And there is nothing they can do about this. The FAA is independent of the Congress. You can put political pressure on them, but if the money is not there, it is not going to happen.” Moegerle, “The logic is not there.” Fiore, “It has nothing to do with logic. The logic is the FAA, in their infinite wisdom, did not notify the union of this potential closure. So, as a result, you have airports with much less business than we have maintaining control towers, where we don’t.” DeRoche, “How much business can be shifted from Anoka/Blaine to Crystal?” Fiore, “They can’t handle the Gulfstreams there. If they go anywhere they will go to St. Paul. Another thing out there on the horizon, is about two years ago the Met Council decided to create another category of airport between a midsize such as St. Paul and a reliever such as a MAC and would allow 6,000 foot runways. That got all the communities up in arms. The Met Council backed off on this. The MAC had no interest in this because at that time it was a \$10 million project and they just didn’t have the funds for it. That is another thing we have to keep our eyes on.”

Ronning, “Is there any revenue that goes to the county from this?” Fiore, “The only revenue is from Key Air. Because they rented that space and in turn built the facility. They lease the space and guarantee the bonds on the facility. In return they get so many pennies on a gallon of fuel oil that goes to the facility. Other than that, the county does not get any revenue.” DeRoche, “Who owns that? If this shuts down, then the taxpayers are going to be paying more for something that they don’t have? Like a G.O. Bond?” Fiore, “What is interesting is airports are funny. They have to operate at a breakeven point. They can’t lose money, nor can they make money. Any surplus has to go in a special fund for project improvements. If the airport declines, they always have to bring in a certain percentage of the operating costs. And the FAA determines what the percentage is. So, the county portion could come back on the taxpayer, yes. But, other than that, everything else at the airport is a MAC responsibility.” Ronning, “In your opinion, as far as you know, what the affect will be on maintenance? And are there any safety concerns?” Fiore, “The safety concern is very difficult to put a number on. You are going to bring people back to the way they operated 18 years ago. The FAA has already started setting up courses for that. There will be pilot retraining. So, most of the pilots are safety conscious. You always have the possibility of something happening. You read about it in the papers. You have these close calls within a quarter mile of each other.” DeRoche, “They had a few of those lately.” Fiore, “We haven’t had an accident at Anoka/Blaine since that control tower has been built 1996.”

Public Forum Lawrence opened the Public Forum for any comments or concerns that were not listed on the agenda.

Doug Tierney, of 4610 Viking Blvd. NE, “I have several handouts. I was watching the Planning Commission meeting the other night. I think you were there Mr. Ronning. I could hear you, but I couldn’t see you. And, you were talking about lake water runoff and you referred to phosphorus fertilizer. You said they can no longer sell it or use it in Minnesota; that it was the ‘Boogey Man’ as you referred to it. I thought that was a strange way to refer to it, when we are talking about a serious issue. And you can still use it; it is not the whole problem, with exceptions.”

DeRoche, “Down by the lakeshore?” Tierney, “If you are going to start a new lawn from seed or sod, or if you have it tested, it still can be used. They were also talking about that Coon Lake is not on the impaired list. I did a paste and copy and it is on the impaired list. We also go eutrophic this time of year from phosphorus. A lot of the phosphorus comes from runoff coming down the street. Here is a list of the latest off the MPCA showing where we [Coon Lake] are.

We are eutrophic.

Here is phosphorus in its basic form, at the end of First Street. I brought this up the beginning of the year. The boat lift is on the end of the yard, and if you look on the left side that is 20 to 30 years of accumulation of compost." DeRoche, "Where are you talking about? You have a picture here and there are so many of these lots out there. Which one are we talking about?" Tierney, "We are talking about First Street that comes off of East Front Boulevard. Go straight down 193rd and they put a boat lift down there and then throw their yard waste down there and when Jack made them take the boat lift off I went down there with my mower and bagger and took it all off. Well the attorney when talking about Sylvan Street, said it is for public use and the last thing he said is 'If you do any upgrade, the public don't like it, they get wild.' They do more than don't like it, she came out waving her fists and she told me not to take it out of there. I told her I was going to take it out of there and put it in my compost pile. In Blaine and Forest Lake they had Girl and Boy Scout groups going to these lake accesses and cleaning them. What do you think would happen if a bunch of young kids would go down there and clean them?"

DeRoche, "From a legal standpoint, what happens if you go down there with a lawn mower and you fall off or cut yourself up? That is a City lot." Tierney, "I didn't say it was right, I just said you get tired of seeing it go in. Here are the readings, the lake was getting cleaner, but for the last five years it was going the other way. Last summer, in front of Heidi's place, at the surface the water was 84.9 degrees. And at the bottom, 14 feet it was 81.7 degrees. You take high temperatures like that, plus contaminated water and this is what you are going to get. How many articles have we seen lately where the blue green algae has killed dogs? This is not a Boogey Man, it is a health issue."

DeRoche, "Part of that is people manicuring their lots right down to the water, cutting down the bushes, cutting down the weeds. It was my understanding that anywhere down in the Shoreland District you could not use phosphorus." Tierney, "That is why I brought in printed material. If you are seeding or sodding you can still use it. And the fertilizer isn't the problem. It is the runoff." DeRoche, "Exactly. But when you manicure it right down to the water's edge..." Tierney, "I agree with you. Absolutely, there are some things we can do down there and some things we can't." DeRoche, "What effect do you think it will change if we mow/change Ditch 56 and run that into that manmade channel and start circulating that water out. I understand this is a whole other discussion, but we did have a meeting on that; where the water comes under 22 and then through some wetlands and then into the lake. And now there is talk where they would like to divert that into the manmade channel and create a sediment pond and move that water."

Tierney, "I have a report there on [Ditch] 56 if you want to read it. The water on [Ditch] 56 is cleaner than Coon Lake. But, like most of the ditches in Anoka County, they are on the impaired list for one reason, low dissolved oxygen. If you have a lake with aquatic plants and running water through with low oxygen, those plants will take care of the low dissolved oxygen. I think to run the water through the manmade channel would be a good thing. But I have the report right there. That is not a problem."

DeRoche, "One of the things I had heard is the fishing had gone down and there was stagnant water. I don't smell a problem." Tierney, "I brought in a report to the CLIA Board Meeting from the MPCA that said anytime you have a long dead ended channel, at the end of the channel you have a big area that is no dissolved oxygen. Like that area at the end of Thielen Boulevard." DeRoche, "That has been there since the 1800's. My concern would be anytime you take the natural filter away and start creating your own, without enough research. You have been out there awhile; I have been there 30 years so I have seen a lot of things." Tierney, "This April I have been there 45 years. I have all the plots of all around the lake. The only thing that got me, you see all the printed material and they had a hissy fit about a reimbursement I put in for the ink."

Tierney, "Another thing I wanted to get across to Mr. Ronning was he brought up tiling farm fields. The tiling increases the pollution runoff into any body of water that is nearby. I think when we have an elected official, we should have accuracy. Every reading I ever sent in on the lake levels I have a copy of. I work at accuracy, and when we are talking about water quality, I want to see accuracy. And the City should handle the boat accesses and stop the dumping in the lake."

Ronning, "I would like people to know this is not all accurate." Tierney, "I would like to go to the Planning Commission and show this all to them." Ronning, "I am sure they would welcome your input."

Jesse Haugen of 23157 Highway 65 NE, "I came in to get a building permit for a detached garage and came in and talked to the inspector about what I could build. He told me everything, 30 x 40. I asked about a lean-to and he said I could build as big lean-to as I want, I just couldn't build bigger than 1200 square feet building." Lawrence, "How many acres do you have?" Haugen, "Two. So I came in and found out what I could have before I did anything and went and got drawings made up and came in with drawings to get a permit. He said everything looked good when I was here. Two weeks later he called and said 'You can't do the lean-to.' I asked why and he said he was new here and didn't know the rules. I didn't just go out on a whim. I came in here trying to do the right thing and now they are saying 'No.' I am curious to what we can do; it is a 10 foot lean-to on a 1200 square foot building."

DeRoche, "He said you can build the building but not the lean-to?" Haugen, "When I came in he said 'You could have as big a lean-to as you want.' Then when I came in he was showing me what he would be looking for as far as inspections and he looked at the lean to and said everything looked good. Then two weeks later he called and said I couldn't do the lean to."

Bethany Haugen, "We were under the impression that as long as we don't build walls it was fine to have a lean-to. That is what I was told when I called. There was a really old detached garage on our property, and when we bought the place, we took the time to have our contractor come in and do all the work and get it ready for the footings. We are trying to build this really beautiful shop. We are trying to find out if there is any type of leniency here." Lawrence, "I think we need to have you come in and talk to Jack."

Davis, "I have talked with Bethany. We have had a couple conversations on this. The question was put to the previous building inspector who is no longer here, is that correct?" Bethany, "It was just a couple weeks ago." Davis, "In any regard, the Building Inspector may have missed that and he called them on that and told them they couldn't have a lean-to. The building code says they can have a structure the area of 1200 square feet. It also says the area of a lean-to shall be included in the allowable detached accessory structure and will be subject to the square footage restrictions for a lot. So, the total size of the structure cannot exceed 1200 square feet. The problem we have run into with the lean-tos is even though they are not walled now, they have the potential to become walled. If the Building Inspector missed that, then that was an error he made. He did call and admit that. But as I understand it, they did already have their plans drawn up." Bethany, "We are just trying to see if there is any type of leniency."

Moegerle, "How big is the structure you are building that you want to attach the lean-to on?" Bethany, "30 x 40, 1200 square foot." Ronning, "How big is the lean-to?" Bethany, "It is 10 foot. We want it to be able to store wood under there. We have no intentions of ever building walls around it. We are trying to find out if there is anyway of moving forward with this." Davis, "You would have to get a variance. You would have to prove a hardship. It is very difficult to obtain a variance even under the best of circumstances. I don't think this would qualify for a variance. But Council doesn't normally make decisions on code issues. They can refer this back to the Planning Commission. We apologize if you got some erroneous information. But, the scenario

might have been different if you had come in and then gone out and got the plans done. I can't speak for the Council, but according to the code you can only have 1200 square feet." Jesse, "So, basically, no?" Davis, "There are basically no decisions here. The Council can direct me to try to get a solution." Davis, "If you would like to set up a meeting with the Building Inspector and myself, we can discuss this further." Jesse, "To get this going, we can scratch out the lean-to and get a permit?" Davis, "Yes, just come in and ask for me at the front desk and we will sit down with the Building Official or Inspector and see what we can do."

There were no more comments so the Public Forum was closed.

Consent
Agenda

Moegerle, "I would like to pull Item D) Res. 2013-37 Acknowledging and Accepting Donation from Hakanson Anderson.

Lawrence made a motion to approve the Consent Agenda including: A) Approve Bills; B) June 10, 2013 City Council Work Meeting Minutes; C) June 19, 2013 City Council Meeting Minutes; D) Res. 2013-37 Acknowledging and Accepting Donation from Hakanson Anderson; E) Pay Estimate #25, S.R. Weidema, Phase 1, Project 1, Utility Improvements. Moegerle seconded; all in favor, motion carries.

Moegerle, "I pulled Item D) Res. 2013-37 Acknowledging and Accepting Donation from Hakanson Anderson to be consistent with when I pulled the resolution for Eckberg, Lammers. To say that these tickets are for the benefit of East Bethel public and that staff, Council and Booster Day Committee members cannot win those. Otherwise, thank you for the donation.

Moegerle made a motion to adopt Res. 2013-37 Acknowledging and Accepting Donation from Hakanson Anderson. Lawrence seconded; all in favor, motion carries.

Electronic Sign
Policy

Davis explained that the City of East Bethel installed an electronic Reader Board sign at the intersection of Hwy. 65 and Viking Boulevard in April 2013. The sign was financed by City authorized funds through the City's EDA and by donations of \$5,000 from the East Bethel Seniors and an insurance settlement of \$2,800 from damage to the previous sign. The sign is maintained and operated by the City of East Bethel and Staff is requesting the approval of a policy that specifies the types and sources of information that can be displayed.

Staff has researched reader board policies of other Cities and found three, which are included in the attachments, which are simple but seem to be effective for establishing priorities and directives for considering message requests.

A proposed City Reader Board Policy is included in the attachments for your consideration.

Staff recommends adoption of the Reader Board Policy as presented in the attachment.

Moegerle made a motion to adopt the Electronic Reader Board Policy. Koller seconded. Lawrence, "I question when it discusses the religious aspect, I thought the casting on that was pretty broad and actually we could deny anyone from any church being on our reader board." Ronning, "We are using Ham Lake as an example. Last night when I drove by their sign, they had an activity at a church on their sign." Davis, "That is what we would constitute a non-religious message. We acknowledge that the churches do serve and have certain programs that are of non-religious nature. Like they do some preschool stuff and they may have a Bingo Night. We don't want to be too limited in what we do and we don't want to be discriminative." Vierling, "You do have to maintain separation between the state and church. But, I think you will find that with policies something is going to come in that is a gray area and staff will bring that to Council asking their opinion on it. No matter what you have for a policy, those events are going to happen. Staff is going to come back to you with something that they are not quite sure

about from time to time. This policy is there to initiate and have some guidance for staff and but it will evolve over time. Now that you have a very nice reader board, you will get all kinds of requests.” **All in favor, motion carries.**

Ord. 45,
Second Series,
Regulating a
Waterworks
and Sanitary
Sewer

Davis explained that the City approved the Waterworks and Sanitary Sewer Ordinance on April 4, 2013 that required all non-residential customers in the area served by the new City Municipal Utilities System to connect to the system by December 31, 2013. After meeting with all the affected business owners, the main concern, from their perspective, is the lack of time that they have been given to complete the connections. here were some sound reasons brought forth at these meetings that timing would be an issue in completing the physical connections by the new deadline. The other concern is financial and some of the owner’s we’ve talked with have indicated it would cause them less hardship if the costs for the connections could be extended into 2014.

As a result of these discussions, Staff is proposing that Council approve Ordinance 45 to extend the time to make the physical connection to the system (the actual connection from the curb to the building) from December 31, 2013 until August 31, 2014. We would still require that all SAC and WAC fees be paid by December 31, 2013 but that the date of physical connection to system would be extended from December 31, 2013 to August 31, 2014.

This extension for the physical connection would not affect the revenues we would generate for bond payments and the temporary reduction in user fees would not affect the long range revenues of the system during this time period. The short term impacts in the loss of flow for system operation and usage revenue can be overcome, but the postponement of SAC and WAC fees would have major implications and repercussions in regards to bond payments. Therefore, the City and MCES SAC and WAC fees would still be due by no later than December 31, 2013. It should also be noted that any costs the individual businesses would owe for the actual physical connection would be paid to private contractors and not the City.

We anticipate that, at a minimum, East Bethel Theatre and Shaw Trucking will connect to the system in 2013, regardless of approval of any extension policy. This would leave a maximum of 10 connections that could be extended into 2014. An estimate of their combined monthly flows is 125 gpd X 21 ERU’s X 240 days = 630,000 gallons. This would be equivalent to \$1,890 in water use charges and \$2,992.50 in sewer use charges. Base and Plant use charges would add an extra \$3,360 to this revenue stream. Therefore, an extension of time to August 31, 2014 for physically connecting to the system would result in the loss of \$8,242.50 based on the above calculations.

It is estimated that the water use for Theatre, Shaw Trucking and Aggressive Hydraulics will be approximately 36,000 gallons per month. These estimates are based on usage amounts supplied by the Theatre and Aggressive Hydraulics and an estimated usage for Shaw Trucking.

While any postponement in system revenue is not to be minimized, the \$8,242.50 potential reduction in usage fees will not have long range consequences to the projects financial situation as long as this reduction can be limited to first 8 months of 2014. In addition to providing financing for the connection fees and negotiating the MCES SAC fees from \$3,400 to \$2,600 for 2013, the extension of time for physical connection to the system would be another step that the City has taken (if approved) to minimize the impact on the affected property owners.

Staff is recommending the approval of Ordinance 45, Second Series, Chapter 74, Article V, Regulating Waterworks and Sanitary Sewer as presented in the attachments and direction to publish.

Davis, “We wish we had the opportunity to meet with the business owners prior to this to work

some of this out. We did get great feedback from them. We had a meeting with all of them and talked to eight of them individually. We anticipate probably that half of them will be connected in 2014. The large users will be connected this year. The loss of flow, revenue, will not be significant. Think it would be a good gesture on our part.” Koller, “Do you have any businesses mention leaving because of this?” Davis, “None that we have talked to. Most recognize that City Council and staff is the messenger and I think they appreciate the efforts that are being made trying to work with them and mitigate the impact. Even though they might not like this, they appreciate what we are trying to do to lessen the hardship on them.”

DeRoche made a motion to adopt Ordinance 45, Second Series, Chapter 74, Article V, Regulating Waterworks and Sanitary Sewer and direction to publish. Ronning seconded. Ronning, “Acknowledging that we got a major issue to deal with, I have been a proponent for stalling or some form of relief for them. Some time extension or something. Are we able to bill someone for something they don’t have?” Vierling, “It is called Availability Charges and they are statutorily authorized for utility charges.” Moegerle, “And, in your discussion with them, they accept that?” Davis, “They look at this as an extension to make that connection. As far as SAC and WAC charges both from the City and the Met Council side, if we get all those connections paid this year it will lessen the financial burden this year between \$90,000 minimum to \$400,000 maximum. To me, that is the critical thing. If we lose a little revenue because five businesses aren’t hooked up until 2014, it will be a very minimal amount. If it does lessen the impact and keep people here, it is worth it.” DeRoche, “So we go out to August 2014 and they take advantage of loan program and they decide they can’t do it, then what?” Davis, “They will be charged the minimum charge. As far as making them do the actual connection, I will let the attorney comment on that.”

Vierling, “The issue is not the connection, it is the dollars involved. Practically speaking, people will connect. What you are doing with your ordinance and what you are trying to do with the loan program is mitigate the impact of the cost. That really is the heart of the issue.” DeRoche, “I am not concerned about connection, if they can’t afford to connect, and we offer the loan program, will they be making payments on the loan program?” Lawrence, “I think the loan program will be separate, that is to help them to hook-up. If they don’t hook-up they are still paying the minimum charge.” DeRoche, “So will we have to extend the loan program further? Because it is set to a certain date.” Davis, “The loan program is for five years. If it is not paid up then, it can be assessable on their taxes. Everyone we have talked to that is going to hook-up this year is not going to use the loan program. That doesn’t mean there won’t be some that use it.” DeRoche, “We are going to have to extend the loan program until 2014.” Davis, “The loan program is set up for the ERUs and those are payable in 2013. The other part is for \$5,000 to connect.”

Ronning, “Ron asked about people saying they are leaving. Rogers Rod & Customs, that is for sale.” Moegerle, “Have you talked to Roger?” Davis, “I have and he did not indicate that this would run him out of business.” Ronning, “Do we have the ERUs identified for the different locations? For the movie theatre, Shaw Trucking, and the rest of it?” Davis, “That is correct. All of those ERU designations were done by the Met Council and we have told these people if there was any significant change in their building to let us know and they can apply to the Met Council to get this changed.” DeRoche, “So all those ERU numbers on that nice colored chart, those are the same?” Davis, “Yes, except for the movie theatre. With the existing businesses there are 67. Doesn’t count the undeveloped parcels. Estimated 20 ERUs for the undeveloped parcels and that could change.” **Koller, nay; DeRoche, Lawrence, Moegerle, and Ronning, aye; motion carries.**

Oak Grove Building Official Contract

Davis explained that on November 21, 2012 the East Bethel City Council approved a contract to provide Building Official and Inspection Services to the City of Oak Grove. The contract fee schedule was structured so that Oak Grove would be charged 95% of their building inspections fees and 100% of the plan review fees for our services. Their previous contractor, Inspectron, Inc. billed for 65% of their fees for inspections and 100% of fees for plan reviews.

When we negotiated the contract with Oak Grove we told them we were not comfortable with the 65% charge for inspections and needed 95% of this fee until we confirmed that we could cover our costs. Our cost for providing these services to Oak Grove through May 2013 has been \$23,941. Twenty-eight per cent (28%) of our time has been spent on Oak Grove Building Official and Inspection Services for 2013. Based on these expenses through May, our costs for providing this service for the year of 2013 are projected to be \$57,002.

Total amounts billed for the Oak Grove Building Official and Inspections Services through the end of May have been \$70,321. Total fees for this service for 2013 from Oak Grove were projected to be \$60,000. The fees we charge Oak Grove are based on a percentage of inspection and plan review fees that are conducted. The May billing for Oak Grove was \$31,405.

Oak Grove, in a very diplomatic way, brought up the subject of renegotiating the percentage charged for the inspection fee and has requested that we consider a modification in the fee schedule that would reflect our cost/revenue experience to date and make any adjustments that would be appropriate. Even though we want to maximize our potential for revenue from the Oak Grove contract, we don't want the City of East Bethel to be perceived as exhibiting an unreasonable position in terms of fairness and equity in the contract. Although Oak Grove currently prefers to contract with the City of East Bethel for this service, we must avoid the perception of avariciousness on our part as to the charges for fees should we wish to maintain Oak Grove's interest in the continuation of the contract.

We have seen that our current billing arrangement more than covers our expenses. I would feel secure in recommending lowering our percentage of the inspection fees to 85%.

We estimate that an 85% percent charge for inspection fees and the 100% charge for plan reviews would have produced \$66,192 in total billings, or a total reduction of 5.9% of what we have collected/billed to date. A reduction in our fee would accomplish the following:

- Serve as a good faith act on our part:
- Provide the revenues necessary to cover our costs and generate additional income needed to fund our Building Department from fees as opposed to levied General Funds; and,
- Serve to strengthen our relationship with Oak Grove as we move forward with joint ventures in the future.

I-Current Fee Structure with Oak Grove- Costs/Revenues(through May 31, 2013)

Costs to Date	Projected Costs - 2013	Revenues to Date	Projected Revenues - 2013
\$23,941	\$57,002	\$70,321	\$171,170

II-Proposed Fee Structure for the Oak Grove Contract-Costs/Revenues*

Costs to Date	Projected Costs-2013	Revenues to Date	Projected Revenues-2013
\$23,941	\$57,002	\$66,192	\$157,600

III-City of East Bethel Building Department Costs/Revenues with the Oak Grove Contract**

Operation Costs-2013	Projected Revenues-2013
\$195,540***	\$274,812

IV-City of East Bethel Building Department Costs/Revenues without the Oak Grove Contract

Operation Costs- 2013	Projected Revenues-2013
\$186,940	\$117,212

*Projected Revenues and Revenues to Date are based on the 85% proposed fee schedule

**Contract as approved but includes the proposed revised fee schedule of 85%

***Includes \$8,600 as additional travel expense

As part of the understanding between the City of East Bethel and the City of Oak Grove, the contract for services is open for recommendations for amendment. The intent of the consideration of the fee adjustment is to achieve the balance that insures that both Cities find it in their interests to continue the agreement.

Staff recommends that the fee billed to the City of Oak Grove for Building Official and Inspections Services be reduced from 95% of their inspection fees to 85% of their inspection fees effective June 30, 2013.

Moegerle made a motion to amend the Oak Grove Building Official and Inspections Services Contract to reduce from 95% to 85% of inspection fees effective June 30, 2013. Lawrence seconded.

Ronning, "Assuming this is budgeted, all cities have to account for all the monies spent. So there must be a written agreement of the conditions we are discussing?" Davis, "Yes, we have a contract. It is included in your attachments." Ronning, "This seems like a strange request." Davis, "Entering into this, we didn't know what our costs would be. We have seen that our income is greater than our expenses. They are happy with the services, but on their part they have to see that there is equity and balance in the contract and give them opportunity to cover their cost. They do have expenses in their city hall with their administrative assistant who actually issues the building permit."

DeRoche, "I thought we were going to check on this after a year. Now we are doing this after six months. According to this for Joan, Nick and Steve it has only cost us \$23,000." Davis, "That is correct." Moegerle, "It is great that this is not costing us money and East Bethel residents are ahead." Davis, "I think the key figure is Table 3 and 4." DeRoche, "How many new home permits have we issued in the City of East Bethel?" Davis, "Five. And Oak Grove has issued 20. If we don't do anything else in Oak Grove we don't incur any other expenses." Ronning, "One of the things I would consider is there is at least an inkling of an opener. If we lose Oak Grove, how many Building Inspectors do we need?" Davis, "One code enforcement issue can take the Building Official as much time as it does to do a plan review for a home. That could bring in \$600." Lawrence, "And the neighbors really complain if you don't do code enforcement."

DeRoche, nay; Koller, Lawrence, Moegerle and Ronning, aye; motion carries.

MCES/City
Force Main
Project Cost
Split

Davis explained that Bid results for the MCES Forcemain Project (Viking Boulevard to 229th Avenue) were originally received by the City on November 26, 2012. Those bids were higher than anticipated and rejected by the City. The projected was rebid by MCES as a result of this and these bids were reopened on February 12, 2013. Included in the rebid were a number of deducts and line item changes for the city's forcemain between Klondike Drive and 214th avenue. However, due to contract issues, all bids were again rejected and no contract was awarded by MCES.

Based on the second re-bid, the City's share of the MCES project, based on the preliminary information supplied by the MCES on June 26, 2013, is \$2,222,560. This cost includes costs for easements, design, and contingency

Both of these projects can be conducted simultaneously and we hope to be substantially complete by the end of this year. The decommissioning of the Castle Towers Waste Water Treatment Plant with the extension of forcemain sewer service is a crucial goal for the City. Completion of this project will permit the City to save approximately 4 to 5.0 million dollars over the next 30 years with the alternative sewer service to Castle Towers/Whispering Aspens and provide selected sewer service at developable commercial intersections north of Viking Boulevard to 241st Avenue.

As described above. The cost amount for the City share of the project must be approved and submitted to the MCES by July 8, 2013 for their submission to the Environmental Committee for approval on July 9, 2013.

Staff recommends approval of the preliminary cost share amount of \$2,222,560 with MCES for the Castle Towers/Whispering Aspens Joint Forcemain Project from Viking Boulevard to 229th Avenue. Before we begin discussions on that, I think everyone is aware, we were contacted at about 4:30 this afternoon regarding the city portion of the project and there is a possible protest of the bid award. Both these projects are intertwined together. We are at a point that we have to make a commitment to Met Council whether we are going to participate in their portion of the project or not. We need to have this information to them by Monday at the latest so they can put it on their agenda for July 9th. We may be taking a little risk by approving this; we can award the bid without protest and still come within budget. I recommend we approve the cost share with Met Council.

DeRoche, "So, we approve the Met Council one and we run into issues with the next one coming up. Are these issues monetary or otherwise?" Davis, "We can approve this and if we want to award the city only portion of the contract and do the base bid and alternates 1 and 2 and we are in the clear. We can go ahead and approve the Met Council portion now." Vierling, "This is our agreement to participate with this financial level with them. This is their contract. Item 5 is our contract we want to add on to this." Davis, "I think we are perfectly safe to go ahead and approve the cost share portion with Met Council."

Moegerle made a motion to approve the preliminary cost share amount of \$1,964,502.19 with MCES for the Castle Towers/Whispering Aspen Joint Forcemain Project from Viking Boulevard to 229th Avenue. This is the amount of the first bid. Davis, "We actually went in and did some design changes. Like the pipe we increased to 10 inch. Also allow the system to run more effectively because of the design of the pumps." DeRoche, "Who approved the design changes?" Davis, "These are alternates that were in the bid. We can reject that. We need as many connections on this system as we can get." **Ronning seconded.** Ronning, "Where did that number come from?" Moegerle, "That was the second bid and it has been rebid since then. I sent an e-mail to our [Met Council] representative and asked what was done with our tax dollars. June 6th (Paragraph 3), Pat Dorn, administrator of Met Council says they take \$96,600 for us. I asked him what we get for it and he said (Paragraph 4) it is impossible to compute the benefits of the Council's services for East Bethel. Citizens benefit from many services."

Davis, "I agree, but that is a totally separate issue. What we have here is one bite at the apple. The city portion went up because we requested an upgrade to a 10 inch from an 8 inch. It is a wise investment to go with the 10 inch. The clock is ticking and we only have about 10 days to make a decision; if we miss that we will have to spend a million to a million and a half dollars to renovate that facility. I request that you amend this to the \$2.2 million bid."

DeRoche made a motion to amend the motion to change the approve amount to \$2,222,560. Koller seconded. DeRoche, "I think we have been playing with this issue for a long time. When we first talked about expanding up there, some said it is great we are going to have more capability, other times some said it was too much money. It has to be done; even the MPCA has

been up there and said we have to do it.” Moegerle, “How much is the negotiation on these contracts? How much are the change orders come in and then we are going to pay more. Very seldom does it go to less on change orders when they come through. I went to the LMC Conference and I talked to a provider of services to municipalities. Basically he told me, ‘We stick it to municipalities, because they have no way of enforcing it.’ At some point we have to put our foot down and say, ‘No, enough is enough.’ I want to know whether they are anticipating another \$50,000 in change orders.” DeRoche, “If the contractor didn’t anticipate it, it is our choice to say no.” Davis, “In the case with this contract with the Met Council, we will have very little say on change orders. We are agreeing to a cost share split. Unfortunately, with a construction project there will be things that come up. It is part of the nature of the beast. There will be some that come down for consideration.”

DeRoche, “Ever since Day 1, MCES had dictated everything. What we are going to do. How many ERUs. What we are going to pay. So the trust level isn’t real high. So, if they decide we need another \$60,000 change order and are you saying we have to do it?” Davis, “Met Council won’t decide they need a change order, it will be the contractor. It gives us an opportunity to do this project. I would like it to be city only.” Moegerle, “The reason I made this motion was to have this discussion, and to say that change orders will not be looked on kindly.” DeRoche, “There is no way we can set a limit.” Davis, “What we agree to is the cost share split on the basic project and if change orders come up, we will need to split them.” Lawrence, “Important thing is we have 16% is our cost.”

Davis, “If something comes up with a change order and was seriously omitted from project, we would have other grounds to deal with it. We will save \$4 or \$5 million on this and can spend the bond funds on this. Get out of sewer treatment business and potential of gaining 1200 connections at some point and time. Have about \$5,500,000 in bond funds that we are going to have to spend somewhere between now and the end of the year. Change order has to be justified. Met Council is looking to keep their costs low too.” Ronning, “We can’t charge Castle Towers anything, correct?” Davis, “This project will be paid back through connection fees.”

DeRoche called the question. **Vote first on the amendment. All in favor, motion carries.**

Motion as amended. All in favor, motion carries.

City
Forcemain
Project Bid
Award

DeRoche made a motion to table the City Forcemain Project Bid Award until July 10. Koller seconded; all in favor, motion carries.

Davis, “I am asking that we schedule a special meeting on July 10th to discuss this issue. This will give the City Attorney ample time to review the claims that have been made.” Ronning, “What are the rules if there is a protest?” Vierling, “We have the time and I would like to take the time to step back and look at the bid spec to make sure what was done. The complaint is that the bid spec is fundamentally not being followed or was errantly set up to confuse people. So, we need to go back and look at it and if we come back and determine that we feel there is no issue with this and a different recommendation if we feel otherwise.” Davis, “The other issue is we are under the gun with the timeframe on this one.” DeRoche, “Did you say we had 60 days from when the bids were let?” Davis, “We couldn’t commit to this portion until we got the Met Council portion. This is a project that seems like it will never end or be completed.”

Lawrence made a motion to schedule a special meeting on July 10, 2013 at 5:30 p.m. to discuss the City Forcemain Project Bid Award. Ronning seconded; all in favor, motion carries.

Staff
Update

Davis, “There is going to be a ribbon cutting at Aggressive Hydraulics on Thursday, July 11th at 9:00 a.m. We have sent invitations and are coordinating this activity. We encourage your

attendance. Last Thursday we had a meeting with Representative Tom Hackbarth, Senator Michelle Benson and County Commissioner Julie Braastad to discuss some issues about Coon Lake. But, we also discussed the issue about the clear cutting at the Sandhill Crane Area. At the meeting it was represented that Representative Hackbarth and Senator Benson were going to contact the DNR to make sure they presented some proposals to the County regarding the auctions proposed for August so they can address them in a timely manner. We will keep you informed with what happens there.

Council
Member
Report –
DeRoche

DeRoche, “I have nothing; have a good holiday and be safe.”

Council
Member
Report –
Koller

Koller, “Booster Days is coming up and we have a few new things planned. Bring your turtles.”

Council
Member
Report –
Moegerle

Moegerle, “I attended my third LMC conference. There were some interesting things for residents. Center for Energy and Environment has some low interest loans if you want to make your house more energy efficient. One of the things I think will be real important for us is (Bob and Richard, remember) Curt Glaser, an attorney that interviewed with us. He has designed a computer program where someone that gets a traffic ticket can go online take a computer course and save 10% on their ticket. The ticket is dismissed after one year and you pay by phone and don’t have to go to court. So what that does is saves having sheriff’s going to court and saves attorney’s fees. Strategic planning, very important for us to do. GreenStep Cities is becoming increasingly important. Also, got information on new laws implemented by legislature. I was contacted by a resident and indicated that a council person was indicating to a large audience that council people are exempt to certain laws.” Vierling, “I have no way of knowing what the comment is, because it is obviously out of context. No one is exempt from any laws, even the President.” Moegerle, “We have the second largest boat parade at Coon Lake on the 4th of July in the Metro.”

Council
Member
Report –
Ronning

Ronning, “I would have liked to have said this earlier. The comments that Doug made (and I will be explaining to him), but I want to explain to all the others too. I did make a comment about drain tiles. The example I used was from a comment from Archie Wyatt, they farm about 1,000 acres and are not connected to any rivers, lakes, drainage ditches or anything. They plow the whole works. The comment was there is no rain garden that will absorb more than 1,000 acres of plowed field. The phosphorus, I did say that. I have not seen in six or seven years any place that sells phosphorus fertilizer in Minnesota. You can go to Wisconsin to get it and you can probably put it on those lawn conditions, but you have to have it to put it on there. Impaired water on Coon Lake: Leon Mager explained what the condition was in detail. It is border line. I would have liked to have gone outside and explained to him at least. The 4th of July, the highways are crowded. Be safe.

Mayor Report
– Lawrence

Lawrence, “There has been information going back and forth between Jack and I. Taking care of things about building reference of where we are going. Do have ordinances to see where we are going. Happy 4th.”

Closed
Meeting –
Attorney/
Client –
Anticipated

Vierling, “For the benefit of the public pursuant to Minnesota Statute 13.D the City Council is going into a closed session at the recommendation of the city attorney and staff to discuss union negotiations regarding Minnesota Public Employees, the City bargaining unit. The meeting will be tape recorded and preserved as required by the statute. We will come back into open session to review any action taken in closed session.”

Lawrence made a motion to adjourn to closed session to discuss union negotiations. Moegerle seconded; all in favor, motion carries.

Vierling, "For the benefit of the public and for the record, the Council concluded the closed session at 10:00 PM. Attending the closed session were Council Members DeRoche, Koller, Moegerle, Ronning, Mayor Lawrence, City Administrator Jack Davis and myself. Council reviewed with the city staff issues regarding the bargaining unit Minnesota Public Employees. Council gave staff input on strategy, reviewed wage and non wage issues. No particular actions or motions were issued by the Council at this time."

Adjourn **DeRoche made a motion to adjourn at 10:03 PM. Koller seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk