

EAST BETHEL CITY COUNCIL MEETING

December 18, 2013

The East Bethel City Council met on December 18, 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
 Craig Jochum, City Engineer

Call to Order **The December 18, 2013 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Moegerle made a motion to adopt the December 18, 2013 City Council agenda with the amendment of removing 7.D the December 4, 2013 City Council Meeting Minutes, striking it from the agenda. Lawrence and I would also like to add to the agenda the Supplemental Payment List which includes the December Insurance Premiums. Koller seconded.**

DeRoche, "I am wondering are we going to do an addition to the agenda?" Lawrence, "Can you explain that addition?" DeRoche, "Well it has to do with the residency of a Council Member. I would like to put that under New Business for discussion later. I am sure everyone has received the e-mail on this." Moegerle, "I have not received the e-mail. The agenda has already been approved." DeRoche, "I have a copy here that it went out to Tom Ronning, Heidi Moegerle, Ron Koller and Mark Vierling. It is a copy of an e-mail that I had sent to Richard because of questions I was getting out in the public." Moegerle, "Who was the original author on this?" Davis, "The e-mail was sent by Bob. Richard replied to it and Richard gave me permission to send it out to the Council Members." Moegerle, "And when did this go out?" DeRoche, "It was sent on Thursday, December 12th. And, it was answered on Saturday, December 14th." Davis, "It was sent to the Council on Tuesday, December 17th." Moegerle, "I got "Hey a couple questions." DeRoche, "That would be it." Lawrence, "Do you want to address it right now?" DeRoche, "I want to put it under new business. I think it has to be discussed and it will take time to discuss." Lawrence, "Typically that would go under other. Do you want to discuss it before it gets that far?" DeRoche, "It can go under other." **DeRoche made a motion to amend the agenda to add 10.0 D Discuss Council Member Residency. Lawrence seconded the amendment; all in favor, motion carries.**

Bond Sale Update Davis, "Stacie Kvilvang contacted me and explained that due to the increasing interest rates and the uncertainty of some bidders and the unavailability of some bidders at the time, they are recommending that we table this to January 22nd. If we go ahead and do this now, we won't be satisfied with the results. She has indications that hopefully the market will improve after the first of the holidays and January 22nd would be a better date to consider this.

Moegerle made a motion to continue to discuss the content of the documents included with the Bond Sale in our packet, not the numbers but the content of the documents. Moegerle, "There are issues in these papers that I think we need to continue to discuss." **Lawrence seconded.** DeRoche, "Shouldn't we have our financial person here if we are going to be asking questions?" Moegerle, "The discussion is about (And Richard you may want to be getting in on this too) but some of the documents are in there say that we own

the sewer system. There are things that I brought up the last time Stacie was here where it indicates we will levy for 105% more than what we actually owe. I think that needs to be discussed because that affects the financial forecast of what we actually get on these things.” Lawrence, “It also makes the statement too that this is a fluid thing. It doesn’t allow us to raise City taxes to pay for it.” Ronning, “Do we discuss this again? At a later date?” Moegerle, “The point is, when we get something back it should have these things deleted in there that are non-factual.” Ronning, “I don’t disagree. But, would it help to send to them your concerns and then they could have an answer when they return?” Moegerle, “Some of these were already addressed and they were back here again without it being changed. So, maybe I was speaking too quietly, which I doubt, but, it seems a problem.” Ronning, “Without knowing exactly what the intent is. When you take a loan out of for a car, they ask if you rent or own your home. I don’t own my home, but I feel that I own my home.” Moegerle, “It is not that kind of question.” Ronning, “It might be. That is the point of rather than making a point without an answer, defensible or undefensible.” Lawrence, “According to this we can’t raise the levy to pay for it.” Vierling, “I don’t know that is necessarily correct, but, from an efficiency standpoint. If there is problem with a drafting of a document it would seem that you would want the draftsman here to address those issues.”

Moegerle, “But, I do think when she comes back she should be prepared to answer the issues. Because otherwise when I brought this up last time, it was oh yes, we will take care of it. Clearly it hasn’t been done.” Vierling, “And that is fine. Certainly we can memorialize those issues and forward them on. I don’t know that Council can have a productive discussion on the issue without the draftsman here to deal with it. For example, I appreciate the comments with regard to 105%, but I think you are going to find that is statutory language under 475.61 that has to be in every bond issue on that matter.” Moegerle, “It wasn’t in the documents for the prior RZED and BABs bonds.” Vierling, “Those weren’t general levy bonds.” Moegerle, “But they were.” Vierling, “In any event, that is just the point. We can have a discussion back and forth.” Moegerle, “One of the things it says in here is that we have agreed that the net revenue will pay for the principal and interest. And we as a Council currently have no reasonable expectation that is going to occur for at least five years. So, how can we sign something that has a representation that we know for a fact that isn’t true?” Ronning, “You can’t ask for money on a borrow situation and say, “I will pay you back when I get a chance if that happens. You have to make a comment in there about what you intention for the money is.” Moegerle, “There are plenty of times in here that it says we will pay for it with ad valorem taxes. Why do you need to lie and say we are going to pay for it with net revenues?” Ronning, “What will this be other than a bitch session?” Moegerle, “It is constructive.” Ronning, “In what regard?” Moegerle, “Because the accuracy is that we are going to pay for this bond first from net revenues and then from ad valorem taxes. Why can’t we tell the truth?” Ronning, “The accuracy will be one person’s viewpoint. It won’t be anything that can be responded to. I don’t care for this idea myself.” Moegerle, “The point is that she has a list so she is prepared to address this when she comes forward so we can get some work done. That is the point.” Lawrence, “I would like to see some numbers and percentage points. When they call them out there are blank numbers we are signing off on. Can we get some data on that?” Davis, “They will provide that once the bids are taken. And then that is when those are filled in, because those are unknowns at this time.” Ronning, “There is a request to postpone this until January 22nd that wasn’t acted on and there is another motion to discuss it.” Moegerle, “There was no motion. The request is from staff and that is not binding.”

DeRoche made a motion to table the Bond Sale until January 22, 2014. Koller seconded. Moegerle, nay; DeRoche, Koller, Lawrence and Ronning, aye; motion

carries.Sheriff's
Report

Commander Orlando gave the November 2013 report as follows:

DUI's: There were four arrests for DUI in the month of November. All four stops were the result of driving conduct. One stop which occurred at 8:06 p.m. involved a female driver who tested at a .33 BAC. A second arrest involved a male driver who tested at a .27 BAC at 3:00 p.m. If you see people driving erratically during the day, we would request that you call 911.

Thefts: There were twelve theft reports. One involved a laptop that went missing overnight from a residence. One involved the theft of catalytic converters that the owner had taken off of vehicles and had stored on his driveway. There was a report of a package that had been left on the porch for the mail carrier that was stolen. One report involved batteries for a semi tractor being stolen. A business reported the theft of a 600 pound metal ramp that they use for unloading and loading all terrain vehicles. There was one report of a cell phone that was left in a friend's vehicle. The owner did not want to pursue charges but claimed that the friend used up all the minutes then threw it out. There were three no pay gas theft reports. Two of the suspects thought they had paid for their gas but had not been charged, they went back and paid. The third report had no vehicle or suspect information to follow up on.

Burglaries: There were three reports of burglaries. One report involved a business that was broken into and scrap metal and welding tools taken. One report involved a table that had its legs broken and put in four different rooms in the house. Nothing else was taken or damaged. The last report involved a home where no one is living that had locks cut off and window air conditioners taken.

Damage to Property: There were five reports of damage to property. One report involved Christmas lights that were broken. One report involved a patio door that had been pried open, however no belongings were found to be missing. One report involved a window broken on a foreclosed upon home. One report involved a window on a vehicle that appeared to have been shot out.

Possession of a Controlled Substance: Deputy Rakotz was requested by another law enforcement agency to check an address for a male who was reported to have stolen a purse. Deputy Rakotz made contact with the male who immediately confessed to stealing the purse. Deputy Rakotz was then given items from the purse, including five oxycodone pills. The male suspect advised he had thrown the purse and the empty pill bottle out the window as he drove. Deputies were able to recover the purse but not the pill bottle.

1st and 3rd Degree Possession of Controlled Substance/ Possession of Stolen Firearm / Warrant Arrest: Deputy Kvam was sitting in a business parking lot filling out paperwork when he saw a vehicle pull into a gas station by a gas pump and sit for approximately five to ten minutes. The driver then got out dressed in a black hoodie with the hood pulled up. After some suspicious moving around the vehicle, the driver then got back into the vehicle and left traveling south on Highway 65. Deputy Kvam began following the vehicle and the vehicle was traveling between 40 mph and 74 mph. Deputy Kvam put on his lights and the vehicle pulled over into another gas station. Upon approaching the vehicle, Deputy Kvam could smell the odor of marijuana. The female driver said she did not have identification. The female gave Deputy Kvam a name and date of birth that did not come back as valid.

Deputy Kvam asked the female and she gave him a different name and date of birth that did not come back as valid. Deputy Kvam had her step out of the vehicle and asked a third time. The female gave another name which again did not come back as valid. As Deputy Kvam was going to take her into custody for false info to a police officer, the female began to struggle with him. Deputy Kvam was able to handcuff the female and upon searching her, found a baggie containing methamphetamine in her pocket.

Deputy Kvam put the female into his squad and began searching the vehicle. Deputy Kvam located 30.8 grams of marijuana, 24 grams of mushrooms, and approximately \$4,000 in cash in the vehicle. There were two firearms located in the vehicle, one which came back as stolen. Upon arriving at jail, the female admitted to having "more" in her bra. There was an additional 125 grams of methamphetamine and \$17,000 cash located during a subsequent search. The female also had a warrant for her arrest out of Wisconsin. This is an example of really nice work on the part of Deputy Kvam!

Reckless Discharge of a Firearm: Deputies were called to a residence on a report of shots being fired in the home. Upon arriving, deputies were setting up a perimeter when the garage door opened and a car left the driveway. The male suspect was inside the vehicle and was arrested a short time later. The male had become upset and started damaging items in his home, to include firing a loaded gun into the ceiling after finding his wife with another male inside a bedroom in the home. No one was injured and the male was charged with reckless discharge of a firearm.

2nd Degree Assault: Deputies responded to a report of a juvenile male pointing a gun at another juvenile male. Upon arriving, deputies learned that three juvenile males had run away from the Bar None treatment facility. One of the juvenile males had a relative that lived in East Bethel. The three males went to that residence and hid out in a shed. Once the unsuspecting relatives left the home, one male (whose was related to the homeowner) went inside. A second juvenile male wanted to go inside as well, but could not gain entry and threw a rock breaking a window. The male who was inside took out a rifle and threatened the other juvenile with it. All three juveniles were taken into custody. The rifle was not loaded and there was not any ammunition for it located.

Arrest Breakdowns:

Felony: 7

1st Degree Controlled Substance – 1

3rd Degree Controlled Substance – 1

5th Degree Controlled Substance – 1

Possess Stolen Property -1

Possess Stolen Firearm – 1

Reckless Discharge of Firearm – 1

2nd Degree Assault – 1

Gross Misdemeanor: 1

False Information to Officer - 1

Misdemeanor: 5

Damage to Property – 2

Small amount of Drugs in Motor Vehicle – 1

Small amount of Marijuana – 1

Possession of Drug Paraphernalia - 1

Moegerle, "When is that going to come up in court so we can be sure and follow it. Officer Kvam's case?" Commander Orlando, "I am not sure. I can check and let you know." Moegerle, "That will be a felony and handled by our City Attorney? And it won't be pled down?" Commander Orlando, "That is several felonies. The more controlled substances you have the higher the penalties." Moegerle, "It would be expensive for the City to do that." Commander Orlando, "The County Attorney will take care of that." Ronning, "What part of the City was this?" Commander Orlando, "This was on Highway 65, by Coopers Corner and ended up by River County Coop." Lawrence, "Is this typical for this time of the month?" Commander Orlando, "Not really." Lawrence, "I almost called you this morning, someone in front of me was going 40 mph and then got in the turn lane." Commander Orlando, "You can definitely call 911. Sometimes there are reasons for this, such as medical issues."

Moegerle, "Could we talk about the trending we are seeing, radio calls, and looks like we are breaking about even. Felony arrests are those for warrant arrests or are those East Bethel residents?" Commander Orlando, "Those are felony arrests that take place in East Bethel. Like the 2nd degree assault, that happened at an East Bethel residence. And with the felony arrest, that is four or five different charges so that shows up as four or five different arrests. It can be a few incidents that because of the number of charges make the number look large." Moegerle, "Is there a way to show there were 32 arrests, but only five incidents. Because that would very helpful to know what kind of trends we are looking at." Commander Orlando, "When I do the arrest breakdowns, I can further break it down and say that three of these felony arrests were related to one incident if that would be helpful to you." Moegerle, "Yea, that would be helpful. I am looking at extra patrols that are up by 20%. Before that was a coding issue between some people." Commander Orlando, "Extra patrols is usually when someone is going on vacation and calls our office tells us and asks us to drive by and check when they are gone. Or there is when we have complaints of speeding or say kids driving recklessly in certain neighborhoods, then we put out the information for the deputies and community service officers to spend extra time in those neighborhoods." Moegerle, "Is aid to the agency, or assistance to agency, it seems to have decreased. Is that the CSO?" Commander Orlando, "That is more of a CSO issue. Some of them take an aid to the agency as when they are doing something for the City of East Bethel. Some CSOs when they do something for the City call that an aid to the public. So, that is more of a coding issue with the CSOs and how they are marking down in their logs what they are doing." Moegerle, "So we are down a little bit." Commander Orlando, "Overall a little bit. The numbers are pretty even if you add the numbers together. Down a couple hundred if you add the numbers together. For some reason there are no radio calls from 2012."

- Public Forum The public forum was opened for any comments not listed on the agenda. There were no comments so the Public Forum was closed.
- Consent
Agenda Davis, "We received the final information today from the last vendor on the garbage haulers license list. So, you have an updated list to consider for license approval."
- Moegerle, "I would like to pull the following items: B) November 4, 2013 City Council Meeting Minutes; C) November 18, 2013 City Council Meeting Minutes; E) Probation Completion for Finance Director; F) Res. 2013-69 Declaring Windows and Doors Purchase for Old School House Surplus Property; H) Res. 2013-71 Establishing Bank Depositories and I) Approve 2014 Garbage Haulers.

Lawrence made a motion to approve the Consent Agenda including: A) Approve Bills; B) ~~November 6, 2013 City Council Meeting Minutes; C) November 20, 2013 City Council Meeting Minutes; D) December 4, 2013 City Council Meeting Minutes; E) Probation Completion for Finance Director; F) Res. 2013-69 Declaring Windows and Doors Purchase for Old School House Surplus Property; G) Res. 2013-70 Setting Meeting Dates for 2014; H) Res. 2013-71 Establishing Bank Depositories; I) Approve 2014 Garbage Haulers; J) Approve 2014 Tobacco Licenses; K) Res. 2013-72 Approving CDBG Grant Application and the Supplemental Bill List as submitted. Ronning seconded; all in favor, motion carries.~~

Moegerle, "Item B) November 6, 2013 City Council Meeting Minutes and C) November 20, 2013 City Council Meeting Minutes. We are still having problems with these. I don't think they are being proofread. I don't think this is the transcriptionist complete issue. In Item B specifically we have misspellings using English spelling as opposed to the American spelling. However, there is one change that is very important, I am trying to find it. On page 3 of 26, at the very bottom, Harley Hansen says, "I am a little sympatric. Sympatric is a word that talks about two species that occupy the same area and come in contact with each other. I think he meant SYMPATHETIC. And I think we would be doing him a favor by changing that word. There is also a repeated discussion in these minutes about verbatim, and I am looking at page 4, paragraph beginning with Ronning, second to last, my comment is very clear, These are NOT verbatim minutes. It is very clear that these are not verbatim minutes. Then on the following page in the paragraph, seconded under the boldface beginning with DeRoche jist should be GIST. There are others, but those are ones in particular I would like to have amended."

Ronning, "Did you have any trouble understanding the meaning of those, to bring those up to everybody's attention?" Moegerle, "The purpose of this is 1) This represents who we are, attention to detail. And when they make for comedy I think that or it puts a resident in a bad light, or certainly the word not changes the complete meaning, I think it would be clear in context and subsequent comments from you and Mr. DeRoche would indicate that. But, I do not think that we should sacrifice accuracy for expediency. I think it is an unforced error on our part that effects how we are viewed in the community by anyone who reads this." Ronning, "Okay so that is the philosophical answer. Was there anything you didn't understand when you read it?" DeRoche, "Let's not turn this into a review of an employee." Moegerle, "I am not. I don't think this is a transcription error. It is very hard to review your own documents." DeRoche, "I guess everybody just isn't perfect." Moegerle, "And that is why they are proofread by other people. But, I didn't understand why Harley would be talking about something sympatric. Because it wasn't about other species, he was talking about men and industries or something. Again, I want to make those corrections. So, if someone wants to make a motion to approve these, that is fine. I will not be joining in that vote."

DeRoche, "Did someone call and inquire about these corrections?" Ronning, "You mean before the meeting?" DeRoche, "Yes. Do we get calls during the day, "I think that would be sympathetic, or that they can't understand what that word is? Or that they can't understand what the minutes mean?" Davis, "No we have received no calls of that nature." Moegerle, "And what it is, (I have talked to a lot of people from a lot of different jurisdictions), it is how you present the City to the rest of the world. These are the kind of things that people snicker about, and say, yes, just like East Bethel. I have been hearing that a lot, East Bethel in a dismissive tone. And, I think that we work very hard as a staff and a Council to be friendly to our businesses and residents and put our best foot forward. And, I don't think we should slough off on this. It requires another person to get involved and re-read these. I am

seeing the same things on the EDA minutes and the Park minutes.” Ronning, “Why wouldn’t you be do this before you come to this meeting? This is grandstanding.” Moegerle, “No it isn’t.” Ronning, “Yes it is. It is look at me, I found this.” Moegerle, “My point is we should be doing a better job.” DeRoche, “You say that you are concerned about the image. I am wondering do these other entities come up to you and say, “You know Heidi, I think East Bethel’s minutes are really bad. You folks really need to have your staff proofread these. Or is it something that Heidi brings up and says, “You know I have been trying to get these summary minutes and they are supposed to be verbatim and this is the way it goes. Every time you go off on your little spiel, you make the City look worse.” Moegerle, “Why do you keep asking me questions? It only prolongs it. I want to get in and get out, get to the meat of the meeting. But you know I am not going to vote to approve these minutes. I am never going to vote to approve them.” Lawrence, “I have gotten e-mails from other people that have asked for us to go to summary minutes.” DeRoche, “Bring in the e-mails, bring in the names.” Moegerle, “I thought you didn’t want names of residents out here. I am getting confused. I need consistency.” DeRoche, “When there are statements made that residents want summary minutes, how many want them? There are 12,000 people in the City.” Lawrence, “One person. And, I have only had two that have said leave it like it is. That they want verbatim.”

DeRoche made a motion to call the question. Ronning seconded; all in favor, motion carries.

Moegerle made a motion to adopt Item B) November 4, 2013 City Council Meeting Minutes with the amendments as made by Council Member Moegerle. Lawrence seconded. Lawrence, aye; Moegerle, nay; DeRoche, Koller and Ronning, abstain, motion fails.

DeRoche motion to approve Item B) November 4, 2013 City Council Meeting minutes as written. Ronning seconded. Ronning, DeRoche, Koller and Lawrence aye; Moegerle, nay; motion carries.

DeRoche made a motion to approve Item C) November 18, 2013 City Council Meeting minutes as written. Koller seconded. Ronning, DeRoche, Koller and Lawrence aye; Moegerle, nay; motion carries.

Moegerle, “Item E. We are the employers of the staff. That is a big responsibility, we have had a lot of legal fees over employment issues. I genuinely like all of our staff. I am concerned about the financial director for a couple of reasons, it may be newness in those situations. He did not detect or bring to our attention the fact that we had co-mingled funds which our attorney in fact admitted we had done at our October 23rd meeting. We have been getting charts and descriptions that quite frankly are not as informative as I think they could be. And, I think they could be much more informative to our residents. At the last Council meeting we had the issue of paying the accrued benefits for Jack. It was supposed to provide us with information on all of his hours and it was 600 and some hours and then three lines. I said, “This makes no sense to me, what are you adding up here?” The response was I got the same thing back. I really think there is some more work that could be done there. For that reason, **Moegerle made a motion to table the completion of the probation of the Finance Director for three months, until after the completion of the bond issues.**

Ronning, “Have you spoken with Mike about these things?” Moegerle, “That is not my job.” Ronning, “Did you speak to Jack about this?” Lawrence, “This is a tabling issue.

We are looking for a second. When an issue is tabled there is no more discussion.” Moegerle, “So, I want to clarify what this is about. Jack and I had an exchange, it is not personal, it is the development of an employee to the best of their ability. And, it is made out of kindness, but it is also we have to be sure that our residents get good value.” DeRoche, “There is no discussion.” **Lawrence, “Motion fails for a lack of a second.”**

DeRoche made a motion to approve Item E) Completion of Probation of Finance Director. Koller seconded. DeRoche, “Is there any employee that you haven’t publicly torn down?” Moegerle, “I haven’t publicly torn anybody down.” DeRoche, “Heidi that is not true. If there are issues, there is a means to take care of it through Jack. If it is not getting handled, you need to do it through Jack. To do it publicly, I think you are basically doing a review of these people publicly and if it were me I would probably slap a lawsuit on the City.” Moegerle, “And, what I have said to you is I think we didn’t get important information that we needed from the employee. And that is a concern, because you and I know and Richard know it is very difficult, these public employment law issues. And, I think there should be no doubt. In my mind Mike is a 97% employee, but in my mind I have what is called a reasonable doubt in my mind. I think he has to be nurtured and he will be a fine employee. But, I think until that nurturing and growth occurs, I think the probation should continue.”

DeRoche, “Personal opinion, I think you are grandstanding. It is always look at what I am pointing out, I am doing it for the residents. No one on Council does this but me, look at me. And you know Heidi, that really damages the City.” Lawrence, “Why don’t we get Jack’s input on his performance.” Davis, “Heidi and I have had a discussion and I respectfully disagree with her position. Mike has completed satisfactorily the terms of his probation. The issue that Heidi brings up about co-mingling of funds, that has to be dropped and we need to make clear that these bond funds were not co-mingled with any other funds. They were set up in a distinct and separate construction account by which they can be tracked and they can be separated into the 2010 A and B bonds. Mike was appraised of this at his hire, this was not an issue with him. This was also looked at by Ehlers, Springsted, Dorsey and Whitney, Eckberg, Lammers, our current accountants Abdo, Eich and Meyers and our previous accountants HLB Taugtes and nobody had an issue with this. To call this co-mingling, I think we need to be very careful because co-mingling suggests some impropriety or wrongdoing and this is not the case here.” Moegerle, “Andy Pratt said those words.” Davis, “That may be, but maybe he didn’t have the information. This was apparent, Mike was told about this from the beginning. It wasn’t his duty to investigate this. He has done his job very well. It is my recommendation he be promoted and get his full-time employment status.”

Ronning, “LMC Role with It. Council versus Individual Authority. I. Role of individual Council Member. Council member statutory duties are to be performed as a whole. For example, it is the council and not individual council members that supervise administrative officers, formulate policies and exercise city powers. II. Council Members and City Employees. Relationships between the council and city employees can create situations where the council members may overstep their proper role, causing potential liability for the council member and the city. Use of an employment scenario may be helpful in understanding an individual Council Members role with employee discipline and termination.”

Moegerle, “I have not said anything about discipline, what I have talked about was in terms of nurturing an employee and I don’t see it as disparaging at all. I have a reasonable doubt.” Ronning, “The bottom line is we are not going to hire him. Maybe later, that is

what you are saying.” Moegerle, “After we get through this very important determination of the bonds.” Ronning, “Are you saying anything different than that? We should wait until you are ready.” Moegerle, “No, what I am saying is, we should get through this very important and critical bond issue. I have talked to Richard about what we looked at in these documents in the bonds. That is a very critical step that the City is taking as a whole and I think that we should wait until that is completed to make this final decision. My opinion, I was elected to give my opinion, you are going to give your opinion, we are all here to give our opinions, it is all good.” Lawrence, “I call the question.” **Moegerle, nay; DeRoche, Koller, Lawrence and Ronning, aye; motion carries.**

Moegerle, “Item F) Resolution Declaring the Windows and Doors for the Old Schoolhouse Surplus Property. I pulled this because I wanted to say thank you to all those people that helped us get these items donated to us. There are some refunds going out. It is too bad that we weren’t able to make this turn into something special and thanks for the effort.”

Moegerle made a motion to adopt Resolution 2013-69 Declaring Windows and Doors Purchased for the Old School House Surplus Property. Koller seconded; all in favor, motion carries.

Moegerle, “Item H) Resolution 2013-70 Establishing Bank Depositories, Item I) Approve Garbage Haulers Licenses for 2014. I understand that Items I and J are on here because they take effect January 1st and our first meeting isn’t until January 8th. With regard to establishing the bank depositories, I had an e-mail with Mark Vierling in 2010 when that was done in December, and the response was it was unusual that was done in December instead of the first meeting of the year. Are you still in agreement with that e-mail?” Vierling, “The agenda that was under discussion at that time had 12 items for approval on it, from newspaper to responsible authority to various things of that nature. My comments at that time were to all of those collectively, not to one of them. I don’t have any issue with bank depositories being approved anytime of the year. Most cities do it in January, some do it the last meeting in December.”

Moegerle made a motion to adopt Resolution 2014-70 Establishing Bank Depositories. Ronning seconded; all in favor, motion carries.

Moegerle made a motion to approve Item I) Approve Garbage Haulers Licenses for 2014. Ronning seconded; all in favor, motion carries.

Lincoln Drive Speed Limit

Davis explained that at the November 6, 2013 City Council Meeting, a proposal was presented to Council to post a 25 mph speed limit for a section of Lincoln Drive between Lakeshore Drive to just east of Hawthorne Road. The matter was tabled until staff obtained input from residents in the Coon Lake Beach Neighborhood.

The issue was initially presented to the Roads Commission at their May 14, 2013 meeting. Resident’s complaints concerning lack of a posted speed limit were discussed at this time and the Roads Commission recommended that an Urban District designation was appropriate at this location for a 30 mph speed limit posting. To qualify as an Urban District, the road must contain businesses, homes or other access points at intervals less than 100 feet and can be posted with a speed limit of 30 mph.

Staff has since received calls with concerns that the 30 mph speed limit needs to be further reduced for this street segment. The 30 mph posting is the lowest statutory limit that the City can post. However, it is possible to set up a special 25 mph zone on residential streets

if adopted by the Road Authority having jurisdiction over the Residential Roadway. The road segment cannot exceed ½ mile in length. The road segment on Lincoln Drive under discussion is .39 miles.

Due to the high density of homes, narrower streets and more numerous intersections in Coon Lake Beach, the Road Commission is of the opinion that the 25 mph residential roadway designation is warranted. The issue was discussed at the November 25, 2013 Coon Lake Beach Community Center monthly meeting. Of the sixteen persons in attendance at the meeting, four were supportive of lowering the speed limit and two had reservations concerning the effectiveness of the proposed lower posting. Based on meeting the qualifications for the 25 mph posting, public input from the November 25, 2013 meeting and individual discussions with residents in this area, the Road Commission, at their December 10, 2013 meeting, voted to recommend the 25 mph designation for the segment of Lincoln Drive, as described above, to City Council for their review.

If approved, the existing 30 mph signs would be reused and the two new 25 mph signs would cost \$26.00 each.

The Road Commission recommends designating this portion of Lincoln Drive as a 25 MPH Residential Roadway and requests City Council consider approval of this recommendation.

Moegerle made a motion to table the Lincoln Drive Speed Limit Reduction

indefinitely. Moegerle, “Only four of the people were in favor of this, which is less than 1% of the population of Coon Lake Beach. This argument being an allegiance to the arguments made against the water park discussed earlier this year.” Ronning, “I would like to discuss this, but I am not going to second this.” **Lawrence, “Motion fails for lack of a second.**

DeRoche made a motion to post a 25 mph speed limit for a section of Lincoln Drive between Lakeshore Drive to just east of Hawthorne Road in Coon Lake Beach. Koller seconded.

DeRoche, “I think some of these commissions are getting tired of this. Going through the research, the paperwork, and then it gets thrown back, time after time after time. I don’t know why there is all this negativity, everything that comes up, certain people just seem to vote against it. I was at the meeting and unless you want to hire a firm to go out and independently survey every household, I don’t think that is plausible. These people on the Road Commission, one lives out there and the rest of them are pretty smart, they are smart enough to figure this stuff out. That is why we hire staff, and bring people on these commissions, not to take the information and cut it apart and second guess anything they say. But, to put it with what we use and some common sense. This is the second time it has come up. I just don’t see it.”

Moegerle, “Mr. Mayor, may I speak?” Lawrence, “Yes, go ahead.” Moegerle, “My argument is based upon the intellectual integrity, based upon what happened from the survey from 2012 of the EDA where 40 people wanted a water park. It was derided, the efforts of the EDA on this was being less than 1% of the entire population of the City wants this so we shouldn’t even consider this. So, I am arguing by the analogy used at the water park by EDA members who gave this responsible consideration and apparently were derided based upon the analogy to the Road Committee. Apparently the EDA wasn’t derided but by me doing the exact same thing with the Roads, it is a derision. So, I don’t understand that folks, you figure it out.”

“But, I attended that meeting, and I am not sure if the 16 included you, me and Jack. But,

four of the 16 which is less than 25%, this was brought up as the meeting with regard to the CDBG was breaking up so not everyone heard this. So, it wasn't a valid discussion in my opinion, nor were alternatives like speed bumps which a resident I spoke with yesterday suggested and stop signs. I didn't believe it then, but I am going to argue it right back at your Bob, the reasoning that you used about the water park, I am using the same reasoning with regard to the 25 mph with the addition that next year we are going to be changing that curve through there. And, in fact, the purpose of it is so that we can move faster through that area. So, I think it will be very difficult to have the 25 mph posting enforced. And, finally throughout Coon Lake Beach it is posted as 15 mph, it is bogus and it isn't enforceable. What we are doing is letting parents train their children that the 15 mph posting is what's effective. And, how they are behaving on their bicycles, and how they walk and that leads them into a complacency of thinking that anyone follows that 15 mph. So, I think the solution is different. I think the 15 mph signs should be replaced with 25 or 30 mph, but I don't think the solution is from Hawthorne to Lakeshore at 25 mph."

Ronning, "With regard to the intellectual integrity, what I am hearing is you are comparing a potential multimillion water park to a safety matter with this speed limit? Do you agree that it is a safety matter with the speed limit?." Moegerle, "The whole issue that was argued at that point was based upon the percentage of people in favor. It was irrespective of the purpose." Ronning, "Did anybody speak against it?" Moegerle, "The point was the issue was purely on numbers. So, I am making purely a numbers issue as my first issue. But, I have these others, so." Ronning, "Did anyone speak against this?" Davis, "Yes, two did." Ronning, "And four spoke in favor of it?" Davis, "Yes." Ronning, "Is that democracy?" Moegerle, "And 10 others had no opinion. So it fails! It fails! It failed so why are we even considering it?" Ronning, "How did it fail?" Moegerle, "Because four out of 16 were in favor?"

Lawrence, "Would you like to say something about this Brian?" Brian Bezanson of 223rd and Quincy, "I am an EDA member. It is inaccurate to say that the water park had support in the EDA committee. (I have the floor) It never got out of committee and it has been a damaging issue in my opinion to have brought it to Council to further look at it. I would be willing to wager some serious money that if it had a vote at EDA it would have failed. It is not that we didn't think it had any merit, it was just that ship had sailed." Moegerle, "I am not talking about the EDA. I am talking about the discussion that was held here at the Council specifically about the survey that was done and the discussion that was held about the 40 people that supported concept of a water park. I am not talking about the EDA. I am talking about what was discussed here at the City Council about the 40 people that were surveyed in 2012 out of 11,626 being .004 of the entire population and therefore it shouldn't be given credence."

Bezanson, "I appreciate your efforts in how you put the survey together and had it at Booster Days. I know this year, we would have liked to see it at EDA before it went out. I am pretty sure if I put together a survey and asked people if they wanted to have a Nascar Track or a Game Farm, it is all how you structure and ask the questions. The only way I got through that one room school house that my grandmother was a teacher in was I was able to guess the multiple choice questions pretty well. My point being, when you have choices to put there, and you need some ranked voting as well. If you have an unlimited number of votes, people are going to vote for all sorts of things. You have to use a rifle instead of a shotgun." Moegerle, "I understand and that is not even the issue, we are not discussing the water park. We are talking about the numeric standards that were used at this Council to deny moving forward with something. And, specifically, it was the percentages, I am using the same argument here plus an additional argument. I am not arguing for the water park."

Bezanson, "I understand that, to tell you the truth Heidi, I don't see where there water park discussion is relevant to a speed study." Moegerle, "Here is what I am saying. The decision to not go forward with it was based on a numerical issue. We have less than 1% of the residents in Coon Lake Beach that were in favor of it. Less than say 25% of the people that attending this meeting were in favor of it." Lawrence, "Even though we have a guideline that was set forth by a minor percentage of the community, it is up to the four of us or five of us, to decide how it is done and we are far less than 11,000 people." Bezanson, "I totally agree. We are a representative of a democracy, we are a City government, this is not a Township government. Frankly as a citizen that doesn't have a skin in Coon Lake Beach, the only argument I have heard that makes any sense in my opinion, (and I have had considerable experience sitting up there) is that if you are going to be rebuilding the road in the future, that is something maybe you should be talking about. Rather than the statistical of how you got to the votes." DeRoche, "A couple points for record. If your analogy is you couldn't get a water park that didn't get through the EDA, so you brought it to Council, it got turned down. And now you are talking that versus a safety situation. Slowing cars down where it can be enforceable. And I don't think our intent is to straighten out Lincoln Avenue so that people can drive faster. I don't think that is the way it was designed? Am I wrong Jack?" Davis, "The new curves will have a little higher speed, I think they are 40 mph. But, there will be a transition zone between the last curves and where the 25 mph speed zone starts. That is on another segment of road, on Longfellow and Laurel, with a small segment on Lincoln." Moegerle, "The other thing is the last time this was brought up, I asked the administrator has there been a speed study been done here. And the answer was, "Oh no, it probably would have a speed limit that is higher." I am all for safety, I just don't think this is the solution. I think there are other solutions. I wish the full 16 could have heard all the solutions. I have heard speed bumps, I am not convinced what was stated at the meeting is particularly of the four of the 16 is persuades to me that this is something that the community wants." **DeRoche called the question. Ronning seconded.**

Lawrence, "All in favor of the speed reduction?" **Moegerle, nay; DeRoche, Koller, Lawrence and Ronning, aye; motion carries.**

Storm Water
Pollution
Prevention
Program
(SWPPP)
Permit
Reauthori-
zation)

Jochum explained that the City of East Bethel has prepared a Storm Water Pollution Prevention Program; otherwise known as a SWPPP, which authorizes the City of East Bethel to discharge storm water. The goal of the SWPPP, when implemented, is to reduce the discharge of pollutants into receiving waters to the Maximum Extent Practical.

The Minnesota Pollution Control Agency issued coverage under the Permit to the City of East Bethel on January 9, 2008. This permit is due for renewal on December 30, 2013. A copy of the SWPPP Application for Reauthorization is attached. The application is a 14 page permit form that summarizes the current programs that are in place and establishes a schedule for implementing the new permit requirements. There are many new permit requirements that are summarized in your packet. In general the main ones include: Ordinance changes, both revisions to current ordinances and several new ones, additional recordkeeping procedures, a requirement for no net increase in volume, Total Suspended Solids (TSS) and Total Phosphorus (TP), and determining the treatment effectiveness of existing ponds based on depth of sediment and drainage area (surveying existing ponds and modeling).

Staff recommends Council approve the SWPPP Permit Application and direct staff to submit the application to the Minnesota Pollution Control Agency for review and comment.

Moegerle made a motion to adopt the Storm Water Pollution Prevention Program Permit Application as written and direct staff to submit to the Minnesota Pollution Control Agency for review and comment. Koller seconded. Ronning, “Since this is a reauthorization, are we engaged with this right now? This is not a new thing?” Jochum, “This is a reauthorization of a permit you are already engaged in. It is due every three years.” Ronning, “Are the conditions any different than the original?” Jochum, “Yes. The bullets items in the packet, those are the summaries of the new requirements.” All in favor, motion carries.

2014 Fee Schedule

Davis has mentioned that explained that staff has reviewed the 2013 fee schedule and proposes the following changes for 2014 fees]:

Proposed 2014 Planning and Zoning Fee Schedule Changes:

Tax Increment Financing Application Fee

Current: \$3,000 Application Fee + Consulting Fees; \$10,000 Escrow

Proposed: \$3,000 Application Fee + Consulting Fees; \$12,000 Escrow

The fee is comparable to what other Cities charge for TIF Escrows.

Proposed 2014 Building Fee Schedule Changes

Non-residential and Non-standard Septic System Review*

Current: No fee is listed for non-standard septic system review

Proposed: \$300 plus actual cost of contracted plan review/inspections

*The MPCA has new septic system regulations that require an advanced level of septic system inspection. The new requirement has to do with alternative type systems and larger systems with a sewage flow greater than 2,500 gallons per day. These systems require that the inspector have an advanced SSTS inspector’s certificate to conduct plan review and inspections. Since there are so few systems that require an advanced inspector certification, we hire out this service when required. To date, the City has contracted for this service only once this year.

Proposed 2014 Cemetery Fee Changes

Summer and Winter Infant Plot Digging

Current: Regular Plot Digging Costs Apply; \$600 Summer/\$800 Winter

Proposed: \$450 Summer/\$550 Winter

These fees are comparable to charges by other Cities for this service.

Staff requests Council consider the proposed 2014 Fee Schedule for approval.

Ronning made a motion to approve Resolution 2013-71 Adopting the 2014 Fee Schedule. DeRoche seconded. Moegerle, “Can you explain why the infant plot digging has changed? One of the things I have learned here is that mobilization is almost everything on some of these things. So, has there been a request for these things? What is the source of this?” Davis, “This is getting our fees in line with what it costs to do this. We didn’t have a fee for some of these. Say for an infant plot, we were changing the same as for a regular plot because we didn’t have a fee in place. It takes less labor and time it is a smaller grave.”

Moegerle, “With regard to pawnbroker/secondhand goods does One Man’s Treasure or Crashed Toys pay those fees?” Davis, “Currently they do not pay those fees. One Man’s Treasures may be subject to paying those fees. We will have a report to you in the next couple months on that.” Moegerle, “What about Crashed Toys, those are also secondhand goods?” Davis, “They do not pay the fee.” Moegerle, “Are they exempt from them, \$5,000

is a good chunk of change we shouldn't be leaving on the table." Davis, "It is and I think it has been interpreted that they do not qualify for that." Moegerle, "What has been interpreted?" Davis, "Their business type does not demand that they pay the fee for the pawnbrokers." Moegerle, "Mark is there a statute on that definition?" Vierling, "There is, but there is more than likely also a provision in your code on that. Certainly in regard to pawnbroker, it is a statutory definition. Secondhand is more than likely in your code. I will see if I can locate it for you." Moegerle, "I have another question in regard to nuisance abatement. I notice this at the beach, and I know that there are efforts by the staff to deal with this in a friendly way and get some movement on it. But, by the time this gets to court to get some action on it, they have spent a lot of time, effort and good energy on this. And I was thinking that \$150 for all that time and effort seems kind of low. I was wondering if we should look at increasing that and should we get staffs input on that, because people work really hard on getting people up to code. Similarly I have a question on building inspection fees, window fees, roofing fees, for residential and commercial. With what experience I have had in the building field, a roof repair of a commercial building is many times larger than a residential. Projects similar are windows and siding, although they are less frequent. And I was wondering if we shouldn't have a different schedule for commercial permits. Because certainly the time involved for staff to inspect these is going to be greater I believe. The same on down the line from full building inspection fees." Davis, "We had discussed the possibility of a two-tiered system and it is still in the discussion stages. We would like to keep things uniform, but in some cases it does involve more work." Moegerle, "When will we get something back on this discussion?" Davis, "We can bring it back on January 8th." Moegerle made a motion to bring this back on January 8th. Ronning, "We are in a motion." Moegerle, "Can we do a motion in a motion?" Vierling, "Not a motion on top of a motion."

Vierling, "To go back to the issue that you raised, it is statutory, it references junk 608.195. Junk and secondhand dealers. Also I would note that the business at issue deals with motor vehicles, they have always had a separate definition. They would not be under the revision for junk or secondhand goods." Lawrence, "Does that also include like trailers and such?" Vierling, "Trailers, anything that is licensed under the 168/169 sections would be under the motor vehicles as opposed to the other sections, so they would not be under secondhand junk or pawnbroker. The clerk reminded me that they have an active license under the Department of Motor Vehicle Sales, so it is covered under that."

Vierling, "Staff did a great job putting the resolution together. Statutes now require that fees schedules are adopted by ordinance as opposed to resolution. So when you get around to adopting this, just make a motion to adopt it in a form of an ordinance and staff will have it prepared and it will be codified with that."

Moegerle, "With regard to the Ice Arena, and this is probably Ron's question, it shows that the rates are \$185 through March 2013. When will we adopt the 2014 fee schedules for the Ice Arena?" Davis, "This is a misprint and it should be through March 2014." Moegerle, "When do we adopt the fall season?" Davis, "We will do that at a later time in January." Ronning, "I don't see commercial rates. Could you point out where they are?" Davis, "They are not included in this fee schedule. We just considered including them in there." Ronning, "What is the difference between hot roof membranes, a flat roof, is one easier than the other?" Davis, "Probably it just takes a little more time to do the inspection. Mainly because of the area. Maybe because of the time to access it is a little more. I don't think it would be an extraordinary amount than what is proposed for residential. But, it does take a little more time to do those."

Ronning amended the motion to adopt the Fee Schedule in ordinance form and direction to publish. DeRoche seconded; all in favor, motion carries.

Davis, "Is there direction to come back again with a tiered section for residential and commercial fees in the schedule?" Moegerle, "I would like to have the building inspection fees for a two-tiered system looked at." Ronning, "When you bring that back can you bring back can you give some examples of what our neighbors have? We are competing for businesses."

Fire
Department
Report

Davis stated the Fire Chief is here to report on statistics for the prior month.

Chief DuCharme, "This past month, November 2013, our department answered 48 calls for service. Of those calls, 22 were medical related. Some interesting calls, November 1st shorted electric cord was a heating element on an electric stove and wasn't shutting off. We had some very high winds on November 5 and 6th and power lines were down, so we went out and controlled traffic until the power companies were able to send out crews. The power line that went down on November 9th was also weather related. Then we also had an interesting call at Cedar Creek Elementary school, the maintenance people notice a strong odor and requested we come out. We took air samples and found that the air wasn't dangerous. We determined that there was construction going on and sealant was being put down and cement came in through the air intake. There was a watercraft rescue on Coon Lake. Those were hunters, they were very cold and very lucky to be alive. They got back to shore on Breezy Point Drive and they were not hospitalized or injured. Just a reminder, don't overload our boats and make sure we have life jackets on. We had a call at Castle Towers, arching shorted electrical equipment. What that was a satellite was installed and they had not called Gopher One and the installer came in contact with an underground electrical cable. And also on the 27th, three of our residents were seriously injured in their home using acetone to take up tile on their basement floor. It gave off a flammable vapor and ignited their house. One of the parties is still in the hospital with major burns.

Fleet Policy

Davis explained that a Fleet Safety Program, as prepared and recommended by the League of Minnesota Cities Insurance Trust, was approved by City Council at the November 6, 2013 meeting. One of the conditions of the approval was to review and modify parts of the Policy at the November 20, 2013 Council meeting.

At the November 20, 2013 City Council Meeting, proposed modifications to the Fleet Safety Program Policy were tabled due to issues regarding the proposed changes that were presented to Council. As a result of these concerns, Council scheduled a Work Meeting for December 4, 2013 at 6:30 PM to continue discussion of this matter.

There were concerns with the proposed changes that were discussed at the December 4, 2013 Special Meeting and the attached revision dated December 18, 2013 attempt to address these issues noted by Council.

The majority of the revisions to the Fleet Safety Policy were offered by Councilperson Moegerle but her changes, that have been incorporated in the policy, are eliminations of internal inconsistencies and improvements in the structure of the narrative. There have been no material changes in the substance of the most recent revision and the original draft presented to Council on November 6, 2013.

Staff requests Council consider approval of the revised policy dated December 18, 2013.

Moegerle made a motion to adopt the Fleet Policy as written and proposed in our packet. Koller seconded. Ronning, “When I see that there has been no material changes in substance, (we spoke about this quite a lot last time) I think there were 40+ changes up to a certain point where they stopped. It was employee, driver, to fleet operator. Are they classified as fleet operators? Or are they classified as drivers for their pay grade and structure in the City?” Davis, “Their pay grade doesn’t differentiate in that. In this they would be classified as fleet operators.” Ronning, “There were references to fleet operators riding on the floor boards, some of that stuff is silly.” Moegerle, “That is what it was with the League.” Ronning, “No, that is what it was changed to. It was fine in its original form. I was opposed to it then, I am still opposed to it.” Moegerle, “My understanding and the whole point of what I did was to regularize it said. To my understanding the substance hadn’t changed, and this is now before us to look at substance.” DeRoche, “The policy is already in place, and there is no sense going into another big discussion on this.” Lawrence called the question. **Ronning and DeRoche, nay; Koller, Lawrence and Moegerle, aye; motion carries.**

Staff Reports
– City
Administrator

Davis, “Staff is attempting to organize a legislative forum in which we will invite our state representatives, representatives from MnDOT, Met Council and County officials to meet with us prior to February 25th to discuss City issues. Primarily issues related to the sewer and water project. We will keep you posted on possible dates to see what fits in with everyone’s schedules.”

City Attorney

Vierling, “I wanted to clarify a matter since there was an earlier commentary in the meeting that Mr. Pratt from my office was quoted on co-mingling with the implication that there were something wrong with that. I contacted Mr. Pratt and asked him, his response back to me is, “No, I said the Federal Tax Regs allow issuers to allocate bond proceeds to one issue or another. There is certainly a timeframe to make that allocation. There was a special meaning given that the RZED and BABs proceeds must be used for specific purposes, for the refunding. If I was Bond Council I want to make it clear what that allocation was so that unused proceeds could be used conservatively and allocated to the BAB issue. But, the City is allowed to have the proceeds in one construction fund. The allocation is just a record keeping matter, co-mingling is okay.” I didn’t want the public or the press to think that there had been anything wrong with the City’s bookkeeping relative to those bonds proceeds because that is not what is being said.” Moegerle, “That is not what I intended.” Vierling, “I assume that, but, I didn’t want the public to go out further with it and have it go on.” Moegerle, “We don’t have the October 23, 2013 minutes in front of us.” Vierling, “I think you are referring to written commentary by Mr. Pratt, that is why I wanted him to clarify.” Moegerle, “Thank you, you are correct.”

Council
Member
Report –
Lawrence

Lawrence, “There are some issues about my residency in the City that will be coming up shortly. Currently my residency is in question. I have a place that I rent on County Road 22. That is a seasonal things, I am there for 7-8 months out of the year at least. I am waiting for the snow to break to return. We don’t have anything better in East Bethel to rent in that area except extremely expensive homes. That works for me, if that works for the people of East Bethel, that shouldn’t be a problem. I don’t think Jack has seen a reduction in my duties. That is the way I need to do it for now.”

Council
Member

DeRoche, “Pass.”

Report –
DeRoche

Council
Member
Report –
Koller

Koller, “Not really.”

Council
Member
Report –
Ronning

Ronning, “There was a Planning Commission meeting last night and I wasn’t able to make it. One of the things on there was the KOA. Do you have information on the interest on that?” Davis, “There was information on a proposal from a property owner that was discussed at the Planning Commission last night. I don’t know if it was a KOA, or just a campground. The address is 4904 217th Avenue. This is the last piece of property before you get into Linwood. From what I was informed the Planning Commission didn’t have any positive input on that, it is in an area that is zoned R1 and there are no facilities to support that type of activity. As far as I know they tabled that item.”

Council
Member
Report -
Moegerle

Moegerle, “Last week was the Park Commission meeting. The discussion was on the Anoka County Parks and Trails Plan, which East Bethel is not a part of and we cannot receive Met Council funds which would have to be a discussion by East Bethel to go forward with trails. And, they it because apparent that we don’t have a current up-to-date trail inventory. This is something that our GIS people will complete with us. Apparently that is going to be a project, the motion has to come before Council.”

“The EDA discussed the possibility of moving forward with a legislative meeting, prior to the 2014 legislative session. So, that is going forward. Also there was discussion about the importance of millennia’s and the next generation. People and their opinions and where the City should be going and planning for their needs, not our wants and needs. I had another conversation today with a resident about kids that are 13 and 15 and no recreation availability nearby. So, I think it is a good thing to further explore. The minutes have obviously come up once again and when you look at the minutes of the surrounding areas and compare ours I think the disparity is clear and obvious and it does not show East Bethel in the excellent light it which it should be. And how wonderful the City is. That is an important issue to keep in mind that there are comparisons that are made by many individuals that read minutes from the surrounding cities as well as East Bethel. On January 10th the long awaited meeting with Met Council will occur. That is a Friday, will Metro Cities be in attendance at that meeting?” Davis, “That is tentative on who would like to attend. Richard has indicated that he would like to attend, but he is not available on that date. We can reschedule that . One of the things we would like to do is see how would like to attend and then depending on who is going to attend, we might have to post that as a meeting and perhaps reschedule an alternate date. But, January 10th is available.”

Moegerle, “I would like to attend and I am currently available for that date. We just currently passed some minutes and looking at page, here is your penny, you said you would bow out. Here is your penny, I hope I am the first taker. I wanted to report that we got our proposed taxes for 2014. Our estimated market value and tax market value went down 1.2% and the estimated increase in our taxes was 18.9%. And the overall increase was 5.9%. People want to criticize, but we have very important responsibilities with regard to staff and making good decision, because a poor decision is very costly. I like Mike, I think he is going to work out in the long-term. I just have some concerns about things. I am not heartbroken. I think this is an employee like all employees that need to be nurtured. I also

wanted to make the point tonight that there are moving standards on decision making and it is very hard to find out what the standards are. Apparently, they don't apply across the board. I am with you guys trying to figure it out."

Residency of
the Richard
Lawrence,
Mayor

DeRoche, "As I said earlier there is a lot of talk in the community, questioning about the residency of Richard. I sent him an e-mail (it was more of a personal one) which I will read: the Subject Line was: Couple Questions; then the e-mail read: Hey Richard, I am trying to dispel some rumors' that are out and about. It deals with as to whether you still live in the City. I tell people that as far as I know you do (which is the truth). I am pretty sure you don't live at 445 Sims (it is listed as owned by a financial institution). I felt it was better to bring up the question in an e-mail rather than at a Council meeting, I think as Council we have come too far to have a lot of controversy bestowed upon us. The next question is, when Heidi brought up the property tax issue were you still a resident? I realize your health has been an issue. I think transparency is crucial in this matter. I know some people preach it, but don't follow it. I know what I would do in the same situation, but, everyone is different. Just food for thought. Thanks. Bob."

"On December 14th I received the following response: Hi Bob, thanks for asking, you are the first person to ask anything about my residency. Obviously our house at 455 Sims is now owned by the bank as of November. Long story, if you want more information we can chat. I have looked for something to rent in East Bethel with no success. There are no rentals in East Bethel except houses that rent for \$2,000 a month. I am not doing that. The only available rental was a RV Park on Coon Lake. We have our trailer down on Coon Lake and we will be living there when the weather permits, this should be approximately seven to eight months out of the year. At present time, we have no residence established other than our RV at 4126 Viking Boulevard. You can check with the League of Minnesota Cities and they will direct you to the City Attorney. Mark told me there are no hard and fast rules for residency, it is solely up to the Council on what they expect all Council Members to adhere to on residency. My honest feelings are that living at 4126 Viking Boulevard for a minimum of six months plus would establish residency. We looked really hard to find something in East Bethel, but this is the best East Bethel has to offer. If you have any more questions feel free to ask. Richard."

"That came about because over the last four to five months maybe, people have asked and as far as I knew, Richard lived here. Whatever has gone on in his life, I know he has had the heart problems and that is a lot of stress to say the least. But, the question was, are you a resident or not. I asked Mark Vierling to check on some things. I went on the League of Minnesota Cities (LMC) and I got what their definition was. And, I got their ruling on it. It referred to Minnesota Statute 351.02. I would like our City Attorney to touch on these."

Lawrence, "Before Mark goes on with this, maybe I should excuse myself so that you can all discuss this without me." DeRoche, "I don't want you to go. It is something that has to be discussed. With so many issues that have come up in the City about transparency, the last thing we need is a bunch of controversy in the newspaper. And there has been to my knowledge three people that have stepped out of office for different reason, but residency is one of them. We need to make sure what is going on here. If there isn't a precedent I don't know if setting one is such a good idea. But, Mark could you please explain some of this?"

Vierling, "As Jack indicated at the very beginning of the meeting, this exact e-mail had been exchanged and then forwarded out to the Council earlier on, prior to today's meeting. This morning I sent out to Council a brief summary from excerpts from the League, from statutes, from the cases that we were able to locate that deal with the issue of residency so

that the Council would be aware at least of what the principals are that deal with this. First and foremost, the concept of residency in terms of its determination is a fact driven issue that the Council must resolve. Residency is principally determined based upon a physical presence within the community as well as intent to reside. There are times when someone cannot reside within a community such as when someone's house burns down, someone gets ill, things of that nature and they are gone for a period of time. So, the Council would have to look at the facts, and circumstances and background issues to determine whether or not residency is met in whether or not we have a Council Member that is intent on declaring this City as his domicile. And, whether or not he has enough contacts and plans to support that. No doubt that the Council is the final determiner of what that residency is going to be. Or make that call in regards to residency and it does come down to a judgment call. So, with that said, we forwarded the information to all Council Members and everybody should have received that today."

Moegerle, "Where are you residing today? When you go home tonight, where will that be?" Lawrence, "Outside of East Bethel." Moegerle, "And you will be back sleeping in East Bethel in March?" Lawrence, "Hopefully in March, it could be April." Moegerle, "Are you still looking for a house in East Bethel?" Lawrence, "One of the main problems I have with a house is there is nothing really available to rent in East Bethel and so that leaves buying. Unfortunately, buying will take 6 months minimum to qualify. Nobody will touch me for at least six months. Then once you find something and close, that is November or December. Those are the parameters I am stuck with. This is the lemonade we are making out of the lemons we have. It is our intention to return to East Bethel as soon as possible. That is part of the intent Mr. Vierling was looking for. East Bethel is where my home is, I have been here for 20 years, I don't plan on leaving." DeRoche, "For the record, Minnesota Statute reads: A vacancy occurs when a Council Member ceases to be a resident of the City. Residence is a factual issue Council must determine in each case. LMC, which we follow, "Every office shall become vacant upon the happening of the following events before the expiration of a term of such office: the incumbents ceasing to be an inhabitant of the state or if the office is local or district, county or city for which incumbent was elected or appointed in which duties of the officer need to be discharged." My question is, how long have you been a non-resident?" Lawrence, "Well, since the home was turned over in the middle part of October." DeRoche, "The property was turned over to the bank on August 30th."

Moegerle, "I did my property tax search in October and his name was still on it. They are slow on doing that. Mark did you say that it is the intent to return that also determines residency?" Vierling, "It doesn't determine, it is a fact weighing test. Weighing all the facts and circumstances. Does someone have a presence in the community, and/or with that an intent to domicile. People have looked at where they vote, where their driver's license is at, where they get their mail, a judgment test of is it apparent that they intend to domicile in the community and they have enough contacts in the community to verify that, to substantiate it."

Moegerle, "Richard, do you have intent to have a post office box for your mailing?" Lawrence, "I have always had a post office box for my mailing." Moegerle, "And you are getting your packets electronically so we don't have to have a CSO drive outside of the City borders to deliver your packets?" Lawrence, "Yes, I have just electronic packets."

Moegerle made a motion that we find that Lawrence domiciled within the City of East Bethel for the purposes of being a resident and an elected official." Koller seconded. DeRoche, "Just out of curiosity, was anyone else on the Council aware of this fact prior to this evening?" Moegerle, "No. I wasn't. I didn't log onto my mail until I got here. I very

seldom check my City e-mail.” Ronning, “I didn’t. I have been asked a number of times as well and it was a lot easier to say I didn’t know then to ask otherwise. If you read the mere intention to acquire a new residence is not sufficient. Moving to a new location is not sufficient. This is that, Piepho vs. Bruns.”

Vierling, “The issue there was whether or not a person seeking candidacy could establish residency for purposes of getting on the ballot. The gentlemen in the background of the case, had a rental place secured. There was a holdover tenant. He had secured a lease. They declared he had sufficient contacts to declare residency. It is a fact driven issue.” Ronning, “Is this a court case appealing a previous issue?” Vierling, “The lower courts determined he was ineligible. But, the Supreme Court overruled it.”

DeRoche, “The statement in here about there are no rentals in East Bethel except houses that rent for \$2,000, I am not doing that. That to me says you are not going to. I understand where Heidi is coming from, but that doesn’t surprise me. However, I feel there was deception, he has been out of the place for three months and nothing has ever come before Council. And I am asking a real serious question. Had I not asked the question, when was it going to come up that he was not living in the City. All we ever hear is we have to be transparent, we have to be honest with our residents, we have to watch out. And, now here we are looking at a situation where someone is a non-resident. Can he become one again? Probably. But, what happens if he doesn’t? I see it as we are going to be the laughing stock of the media. And, I think there is going to be some fallout from this that people are going to say, “Look, you don’t even have to be a resident to be the Mayor in East Bethel.” And we are supposed to be building the image of East Bethel. However it shakes out, I am good with it. But you know what, there are going to be a lot of questions from people saying, you know what we voted for him because he lived in the City. Now he doesn’t and he is still in here. I think it is our duty and as Heidi says, I would be curious to know what they think.”

Lawrence, “I have rented this place on County Road 22 since April. Anticipating this would be the move we would make.” DeRoche, “So you plan on living in that RV Park permanently?” Lawrence, “Right now that is the best I have got. There is the time frame, which it takes to get your credit repaired. The time frame to buy something, it is all closing. You can’t buy a house in one day unless you have cash, and I don’t have cash.” DeRoche, “And, I understand that. By the time you become a permanent resident, how much time will pass? I represent the residents. If it was me, I know it would come up. If it was me, personally I would have to say you know what I don’t live here, I am out.”

Moegerle, “I didn’t find out about this until today. But, I had inklings this might happen. I think there is transparency. I see that he has a place to stay, that he intends to stay in and plans to stay in, in March. I personally understand the financial burdens of trying to find a place to stay in within this City. Nothing he has ever said or done in any way in the intervening time has indicated to me that he is less than in his determination to remain as Mayor here. And show that he is loyal to this City. And, furthermore, I think as embarrassing of anything for a person to stand up and volunteer their financial situations and their medical situation. There was a lot of brouhaha about the tax matter, and I think this matter is much more intensely personal and I think to find a way to bring this up in front of God, country and city is extremely embarrassing. I haven’t discussed this with Richard. But, it has been discussed here and I think he has been forthcoming. I am absolutely convinced of his veracity and he intends to move here permanently as soon as he can find a house and he will be living in his RV. This is not the determining factor of my reasoning but should the Mayor be found not to be a resident and not on this Council, we

will be locked in a lot of two to two votes, three to one vote maybes, but there will be a lot of two to two votes and this City will be gridlocked worse than Congress. And, that does a disservice to the residents, worse than this interim time while Resident gets his ducks in a row.”

DeRoche, “For the record Heidi, there you go saying things that are not true. It would not be a two to two vote locked in because if Richard or anyone on this Council is a vacancy, then there is an appointment made and the spot is filled. Get your facts straight.” Moegerle, “Get your law straight, if a person has less than two years left on their term, they do not stand for election and it gets filled. There is not an election.” DeRoche, “It is determined by the current City Council.” Moegerle, “It is, but.” DeRoche, “A vacancy is found if a person is taken off Council then a vacancy is declared on the Council person and then that person’s position is appointed. I am very well aware of what the law is.” Moegerle, “The point is, as long as that is going to take? And the controversy that is going to create. That is not healthy for the City.” DeRoche, “The amount of time it will take is probably 20 minutes. You are dressing it up and grandstanding.” Moegerle, “Let’s talk about ideas. EDA, Road, Park Commission vacancies, how many applications do we have?” Davis, “None.” DeRoche, “And what does that have to do with his residency?”

Ronning, “We are encouraged to look at facts, but, I believe Richard has had a very tough year. Did you have intent to tell anybody at any time what the situation was? And, what you were trying to do about it.” Lawrence, “It is not something you volunteer. I told Jack. He knew for quite a while. The city attorney knew from Jack. This is extremely important and we can’t rush these issues because we have to make something that works for everybody. Because we are going to set precedent. And, the intent, what my intentions are, I have told you what they are.” Ronning, “I fully believe your intentions. But, we are still stuck with a miserable job. We don’t always agree up here, but I don’t think anybody should say that we are all enemies or something. We might not all be friends, but, the intention, I don’t know that just asking a question like that can establish the intention to conceal.”

Moegerle, “Have you changed your driver’s license?” Lawrence, “Sharon has, I haven’t yet.” Moegerle, “But you still have a post office box in East Bethel?” Lawrence, “Yes, but that doesn’t mean anything I could have a post office box anywhere.” Moegerle, “But obviously you are still coming back there to pick up your mail.” DeRoche, “As to the comment, “I wouldn’t stand up and tell people that I don’t live here.” I am sorry I don’t agree with that. If you don’t live in the City that you represent, this is a moral issue. If you are not living in the City then you are not a resident. I think it is important that people know that Richard doesn’t live in the City.” Lawrence, “One thing you have to consider, most states, six months and a day, you are a resident. If I am not a resident here, then I am a resident nowhere. What does it take to be a resident?” DeRoche, “I am being real nice. There were some other things that were making my decision and you probably don’t want me to bring them out.” Moegerle, “I think residency and where you sleep at night don’t necessarily interchange. There is enough evidence that he has contacts here, intent to move back here, and sleep here. I dealt with this when I moved from Indiana, at what point could I stand to be on the Planning Commission? So, I have thought about this outside the context of this. I think he is a resident, he has intent to return, I think if he is a resident he has to disclose that he is spending the night outside of the City for a short period of time.” **Moegerle called the question. Moegerle, aye; DeRoche, Koller and Ronning, nay; motion fails.**

Ronning, “When I was settling grievances or settling certain things, we used to call that the

kneepad crying towel. We are encouraged to look at facts and I didn't hear one fact. You called the question before we got to talk about a little more facts. We didn't get to ask Mark what the six months and a day was. Does that meet the requirement, it does speak to intent?" Vierling, "Minnesota doesn't have any time deadline for residency. It does speak to intent. It can be one day, it can be 364 days, it is all based on the sequence of events, presence on the community, the intent to declare domicile. Clearly, statutorily, before you can put your name on the ballot you have to be here for at least 30 days. All your affidavits of candidacy indicate that. But aside from the affidavit of candidacy under section 204, really there is no time requirement in terms of being a resident if you have all the background elements that support that."

Moegerle, "Mark, what is the next step? And if he ends up spending nights in East Bethel can he stand for that vacancy? And, is that vacancy for the Mayor or Council Person?" Vierling, "First off, the issue is here at the board tonight. You have a motion to declare that he is a resident. If that passes then all that becomes academic. If on the other hand, there is a motion to declare a vacancy in any position and that passes, then that position is vacant. There is no opportunity to re-qualify. You can run again for that position." Ronning, "You said Minnesota Law doesn't have a definition of time limit, what about non-resident?" Vierling, "Not that I am aware of. Residency is the legal term of art." Ronning, "Speak to inhabiting. Requires the residency within the community 30 days before the general election. You put a big squeeze on without allowing conversation."

Moegerle, "I am looking at the Minnesota Department of Revenue and state residency. Part time resident definition, Richard meets that." Vierling, "Understand that is a definition for taxing. And Minnesota is in favor of taxing people." DeRoche, "Whatever decision comes out of here, it sets precedent." Ronning, "But, the next group can set their own precedent." Moegerle, "I want to understand your stand, because Richard doesn't sleep in East Bethel, he is not a resident. Is that a fair summary of your position?" DeRoche, "Because Richard stated he is not a resident right now, he didn't want to spend \$2,000 on a house. He can't find anywhere to live. He plans on moving in his trailer in March. If you want to say that go ahead folks you don't want to live here other than 30 days before you take office and then you can go to another City and hold office. That sets precedent. I am not an attorney and I realize you are." Moegerle, "A Council Member is hit by a car and is in rehab care for three months, is he still a resident. Isn't there a parallel here? He has had health issues and moves to Isanti. It wasn't his choice." Ronning, "If he was in the hospital, I don't think we would be talking about this." Vierling, "In essence, it is almost a gut feeling." Ronning, "Is the ruling clear and ambiguous? It looks like it is almost a coin toss?" Vierling, "In some aspects it becomes almost an individual opinion. Every case is fact driven. If their house burned down and they are out of the community while they are rebuilding, you have to look at that. Do they have enough contacts in the City?"

Lawrence, "I have always considered myself a resident of East Bethel." Moegerle, "You go to EDA meetings, what other meetings do you go to?" Lawrence, "EDA is the only meetings I go to now." Ronning, "Do you go to church in the City?" Lawrence, "No." Moegerle, "Have you been meeting with residents with regard to City issues?" Lawrence, "Today I did."

Ronning, "Understanding the law. That is why I am asking the questions and it almost boils down to a coin toss." Moegerle, "Wherever you spend the night, do you come back to East Bethel in the morning?" Lawrence, "My shop is in Isanti." Ronning, "What address did Sharon put down for her license?" Lawrence, "4126 Viking. Whether I am here or not, that is what it will be. I have to establish something. I want to do what is best for the City, you

have to decide what is and what isn't residency. I am fine either way." Vierling, "In all honesty, there is not a lot of case law in this area. Most of the cases are on elections in terms of who can vote or can you be a candidate for office. There are issues with regard to someone getting redistricted. They all come down to being a fact driven type of result." Moegerle, "Have you been going to the pancake breakfast within the City of East Bethel?" Lawrence, "No, it is on Sunday when I work."

Ronning, "Everyone has to live with it, whether a voting member. One way or another, you have to live with yourself, how you vote. If no one else criticizes you, you can criticize yourself." DeRoche, "It is not personal, and it should not be personal. If Richard is a non-resident and holds office, then that is what East Bethel standards are going to be. Because we can't pick and choose what our interpretation of things are, even though some people may like to. Everybody says there has to be standards, there has to be this, well you are right. If he stays in, he stays in and so be it. It is nothing personal. For crying out loud, we have been up here three years and he went through a hard time, I understand that, he went through heart surgery, I understand that. And, it is nothing vindictive. I have been on hard times. It is what do the people of the City expect to happen? Are we going to be on emotion or facts. How are we going to do things?" Moegerle, "I think the law is clear. The facts of residency are clear. If he is a non-resident that is fine. I am just not satisfied that during this period of time, with health difficulties and financial difficulties, plus all of the other facts with the residence at Viking add up to not being a resident. Just how I weigh the facts, just my opinion. It is independent of your opinion."

DeRoche, "Health can't be part of it and financial can't be part of it. If we are dealing with the facts, forget the emotion. What his situation is, is between Richard and his wife. You deal with the facts that are here. Forget the emotion. If you go to court what happens? You try to get the facts out." Moegerle, "If there weren't the financial and health, it would be a different case. If he had just decided to just go buy a house in Minnetonka and to drive back and forth between Minnetonka and East Bethel so I can be on Council and call himself Mayor, that is a different case than what this is, substantially. This is not what he wanted, any of this. My expectation is he lives within a mere distance of the City limits. It is not like he is living in Minnetonka. I think probably that decision was driven by he has an intent to return. He does have those contacts. If we are talking about where you are sleeping at night, what if you had a girlfriend in Minnetonka? So you are spending six nights a week in Minnetonka, are you still a resident?" DeRoche, "I have a residential address that I have had for 30+ years. It is not as if I am spending the night with some girl down in Minnetonka. It is not the same, you keep trying to blow things up and get away from the facts. This isn't a court hearing, this isn't a trial and you don't have to convince anyone of anything. This is just about the facts."

Ronning, "You can't be kind of pregnant, you either are or not." DeRoche, "He hasn't been sleeping here for three months, the LMC and State Law say you should be a resident living in the City. To me he should be a resident living in the City. And, if his house burned down, that would be a different scenario. But to say he has had hard times and he moved to a different City and it was all beyond his control." Moegerle, "It was all beyond his control. That is what they have in common." DeRoche, "If it was me, I would have resigned. I would have said I am not there and I cannot do these things. It's been fun and when I come back I will give it another go." Moegerle, "I don't think it has been proven he is not living here." Ronning, "What is the value of intent, versus action." Vierling, "The commentary in the case is intent doesn't carry the day. But it is a factor to be weighed with the other factors. If you are going to get in a balancing test you are going to look at all the contacts he has in the community." Koller, "He is using a seasonal campsite as a permanent

resident. And, I have a friend who has lived like that for ten years. It is his permanent residence and they head south for the winter, our Mayor headed north.” Lawrence, “I do plan on running for Mayor again.” Koller, “It is his house now and I am sure he will look for a house when his financial situation improves.” Ronning, “Have you lived in your address to date?” Lawrence, “Yes, just off and on a little bit. We paid for this year and for all of next year.” Lawrence, “If someone calls for the vote, it should be Heidi, she is the Acting Mayor.” Ronning, “Please clear up something. We all have the same vote, right? We have a Mayor that chairs the meeting, we have a weak Mayor system, we are all level, same/same, no more authority, no less authority. I think there is some misunderstanding on this sometimes, not on Richard’s part on how those things go.” Roll call will be taken.

DeRoche, nay; Koller, aye; Ronning, nay; Moegerle, aye; Lawrence, abstain; motion fails.

DeRoche made a motion to declare a vacancy of the Mayor’s seat. Ronning seconded. DeRoche, aye; Koller, nay; Ronning, aye; Moegerle, nay; Lawrence, abstain; motion fails.

Moegerle made a motion to table the Residency of the Mayor until January 8, 2014 as the first item on the agenda. Koller seconded. DeRoche, nay; Koller, aye; Ronning, nay; Moegerle, aye; Lawrence, abstain; motion fails.

Adjourn **Moegerle made a motion to adjourn at 10:17 p.m. Koller seconded; DeRoche, nay; Koller, Lawrence, Moegerle and Ronning, aye; motion carries.**

Attest:

Wendy Warren
Deputy City Clerk