

EAST BETHEL CITY COUNCIL WORK MEETING

March 19, 2014

The East Bethel City Council met on March 19, 2014 at 6:00 PM for the work meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Ron Koller Tim Harrington
 Heidi Moegerle Tom Ronning

ALSO PRESENT: Jack Davis, City Administrator
 Colleen Winter, Community Development Director
 Andy Pratt, City Attorney

Call to Order The March 19, 2014 City Council meeting was called to order by Mayor DeRoche at 6:00 PM.

DeRoche, "We have a new staff writer for the Anoka County Union, her name is Debbie Griffin."

Griffin, "I have recently contracted to cover the East Bethel City Council. I am happy to answer any questions you might have."

Adopt **Koller made a motion to adopt the agenda. Harrington seconded; all in favor, motion**
Agenda **carries.**

3.0 - Traffic On October 2, 2013 Becky Knisley, 23250 Sunset Road, requested City Council to consider
and Motor amending Traffic and Motor Vehicles Ordinance, Section 70 to address noise and hours of
Vehicles operation of dirt bikes. The City has received previous complaints from residents in other
Ordinance, areas regarding this same issue. This Ordinance was discussed at an Ordinance Committee
Section 70 meeting on October 28, 2013, but no consensus was reached at that meeting. Staff has
looked at this Ordinance and is recommending the following changes:

70-110 Definitions

- Changed Motorized dirt bike to Off Highway Motorcycle (OHM) – this makes the language consistent with the Off Highway Vehicle regulations of the Minnesota DNR.
- Added a definition for race track

70-111

- Proposal to change lot line setback from 50 ft. to 100 ft. and dwelling units from 100 ft. to 200 ft.
- Added language for non residents
- Added No at the beginning of sentence
- Left two (2) hours of operation unchanged, and changed language from one (1) hour to two (2) hours of no operation
- Added language regarding race tracks

Other considerations:

- Council could look at adding language for an Interim Use permit (IUP) for race tracks
- Council could prohibit circular race courses in certain residential zones

- Council could prohibit exhaust modifications to dirt bikes operated in the City

Recommendation(s):

Staff recommends Council consider the changes provided in discussions in the March 19, 2014 Work Meeting for decision, and if approved, directions to publish.

DeRoche, “To me, personal opinion is, dirt bikes, ATV, snowmobiles are not the problem. The way the ATV ordinance was crafted it is under MN law. When they are running down the road not stopping, changing an ordinance won’t stop that. To ride on the road in East Bethel, you have to have a driver’s license, drive on the right side of the road and have a helmet on if you are under 18. There are not a lot of problems, except one or two. I don’t know if changing this – changing distance from 100 feet to 200 feet. The thing you can’t drive on your own property if you have a modified exhaust. It is unfortunate, as far as I know; this is the only issue we have had. The City was trying to deal with it. The parties say they are following the ordinance. I don’t know. The enforcement. We have had issues with people having problems with CSOs and deputies driving around. Are we going to dispatch someone to check them out? I am not sure who came up with the redlines and changes.”

Davis, “The changes were staff recommendation to see if anything works or addresses the problems.”

Koller, “I see the hours from 9 a.m. – 8 p.m. from 10 – 5 p.m., it is conflict with DNR rules. They allow them from ½ hour before sunrise and sunset, so you can’t use your ATV for hunting.”

Moegerle, “How would you make it fit? A city can limit. How would you make it fit?”

Koller, “Since deer hunting is legal, you can’t restrict them.”

Davis, “The off-road dirt bikes are the problem.”

DeRoche, “I would like to have a public hearing on it. Anyone can speak up for it, or against it. There is so much stricken out of here, it is gutting what we did. There are an awful lot of dirt bikes, snowmobiles and ATVs in the City. If we deal with this way, what happens when someone has a loud mower? We have discussed that up here, as far as a noise ordinance goes. This is more of a nuisance anything. Why couldn’t this be a nuisance ordinance? I haven’t seen a big problem, other than this issue. We can ask Shelly, she is coming in tonight.”

Davis, “This is the third complaint we have had since 2011. Both of the other complaints were along the border with Bethel. These are the complaints and they have been from dirt bikes.”

Koller, “A lot of the problem we have to deal with the after market exhaust. At state races, they took a decimeter to your exhaust. A lot of the ones running around have the louder exhaust.”

Moegerle, “What we are talking about is racetracks. It makes sense to not have racetracks in a residential area. I will let the You Tube video run, and you can hear the noise. I want to have the quiet enjoyment of my home. If that is in the background for hours on end.

Racetracks should be regulated. It is not for the purpose of people from prohibiting them.”

DeRoche, “We don’t need that going in the background.”

Moegerle, “It is making a point. I think they should be regulated.”

DeRoche, “All these redlines and distances, what does it have to do with the race track.”

Moegerle, “Then write it about the race track. We started this last fall. This lady has had a concern about this racetrack for over six months. It keeps getting tabled. We tabled it last week because we wanted more information. We are here two more weeks later, and we have an hour and fifteen minutes to solving her problem. I thought we were here to do the peoples business.”

DeRoche, “No more grandstanding. Heidi I am asking you. When it was tabled last time, when you who are so up on Robert’s Rules of Order. That is why our meetings just drag on and on and on. I am quite sure, she hasn’t been complaining about this for the last six months. I have had conversations with her, and told her we are working on something palatable for both parties. If we do this for a situation, everyone is affected. To say we are not doing the City’s business, that is bologna.”

Moegerle, “And you want to table it again, and that is getting the work done. I don’t understand that.”

DeRoche, “We can put this up for a vote and then it is done.”

Moegerle, “We will make some progress.”

DeRoche, “I don’t see a problem with the ordinance. Do I want peace and quiet? Sure. Minnesota DNR took a lot of time creating the rules. They have a lot better resources than we do.”

Ronning, “What is the name of the racetrack?”

Moegerle, “It is a private racetrack.”

Ronning, “Who named it a racetrack?”

Moegerle, “She did.”

Ronning, “A racetrack is when people are running it, and timing the track. I am looking at an aerial picture, there isn’t a track.”

Davis, “The neighbors did take a dozer out and grade it. The quantity of dirt moved does not require compliance with our ordinance. They did create a track.”

Moegerle, “Wikipedia doesn’t agree with your definition.”

Ronning, “How about a dictionary?”

DeRoche, “Was anyone at the State contacted on this? I have read a lot of the League of

Minnesota Cities. We can make things more restrictive, but if we do it, we are going to be put in a legal pinch. If someone wants to challenge it, they aren't licensed and we don't hold competitions. How can you regulate it?"

Ronning, "This isn't limited to East Bethel."

Pratt, "This is an abstract discussion. The City has to have police power to keep the peace in the City. This is general power of cities. When there are state requirements, such as massage powers, the statute says this prevents the City from doing other things. The DNR example was brought up regarding hours. Cities can be more restrictive than the DNR. This is a policy for the Council and consider that and if it is enforceable."

DeRoche, "What is the law on quiet enjoyment of property? She is not able to enjoy to her property. She can enjoy her deck. What rights for quiet enjoyment are there?"

Pratt, "That is more of a nuisance action. There are many behaviors that might constitute a nuisance. There are quiet enjoyment nuisance. If you, circumscribe that with standards that are quantifiable."

Moegerle, "The issue is the decibel readings. The logistics of quantifying is the hard part."

Pratt, "I have not seen this in the cities I have worked with. It would be a nuisance, under the code. You would go back and forth in the courts. You can put the quantifiable, if you exceed a certain decibel reading or closeness to the house."

Davis, "Both Andy and Bob touched on it being enforceable. We have found out that noise is an unenforceable action. The testing you have to do to enforce it. Addressing it from noise or nuisance would be hard to be enforced. It is a very narrow line to walk here. I would hope that maybe we could come out of this with some recommendations so we can keep discussing this."

DeRoche, "Number six, you can ride for two hours and stop for two hours. That is in the nuisance. So why gut the off-road and ATV ordinance?"

Davis, "The nuisance ordinance goes back to noise. It is next to impossible to do it. You have to take 360-decible readings. ACSO has one-decibel reader that is approved for this. They are not going to come out here and take readings for one hour. We don't have a reader. The definition of noise is defined by the MPCA."

DeRoche, "Oak Grove had a trail set up on their property so they could do that, and unfortunately that young man died. People live out here so they can ride their snowmobiles, ATVs and dirt bikes. What are we going to tell people they can't ride their machine after certain hours and they break down."

Davis, "We have had no complaints about ATVs, this is a dirt bike problem."

Moegerle, "I think we have to separate this out into the reserved sections. What maybe we should do is have this information and tweak it for the deer hunting. We should indication, dirt bike nuisance and define it as nuisance underneath. I think that would solve their problem. Then we can talk about the other issues. We could define it and have it as a subheading."

DeRoche, "How can we have a dog barking ordinance? If two people call and complain, and two from the same residence. Why can't we do the same thing with dirt bikes? The time limit on and off, I think they can alternate it. I am not going to vote to do that. I am not going to tell people in East Bethel they can't do this anymore."

Davis, "We have almost no enforcement about barking dogs, and they are calling back again."

Ronning, "This is fatally flawed. These are two neighbors that have a complaint. It is two neighbors. Rather than deal with the problem, we are changing the rules so the problem goes away. Does anyone disagree?"

Davis, "There are two neighbors that have a dispute that can't be resolved."

DeRoche, "So it is our job to resolve the problem with the two neighbors."

Moegerle, "We had the other two complaints as well. I suggested she go to Anoka County Mediation. We still have that option. There is a point that is being made. If we want to make it analogous to the barking dog. We could do something to outline some reasonable standards."

Ronning, "Who would the reasonable standards apply to?"

Moegerle, "It depends on how you draft it."

Ronning, "When were the two other complaints?"

Davis, "They were close to the same neighborhood, one in 2011 and one in 2012."

DeRoche, "One complaint each year."

Winter, "There was one in 2013 also."

Davis, "That relates to someone coming to visit you, the owner is gone and you still have to have the owners permission."

DeRoche, "If I don't have written permission, that is State law."

Moegerle, "This reinforces it."

DeRoche, "The State law is very clear. Most young people have to go through the safety class."

Ronning, "I am not opposed to helping her. This is not an anti Knisley thing so I hope it doesn't get communicated that way. When you are looking at two neighbors, that is a small area to change the rules for everything."

Moegerle, "What is your proposed solution?"

Winter, "I think the issue, it has to do with the fact that it is straight-line pipes, the way they

made their pipes very loud. The track is about 500 to 600 feet away. That is probably the issue. The excessive noise of the particular dirt bike.”

DeRoche, “Why do you think they put pipes on there that are louder than stock? It creates more power. If they are racers on a circuit. They are not going to change the pipes on the bike. They aren’t having a competition at home. They might have modified exhaust. This is a tough one.”

Moegerle, “Did you make those changes, paragraph three, without the written permission of the property owner, is that to help Anoka County to help cite?”

Davis, “Yes to help them with any investigation.”

Moegerle, “Can we change those hours without problem?”

Davis, “Whenever this ordinance was enacted, probably around 2005.”

Ronning, “Where are you finding these numbers you are referring to?”

Moegerle, “If you look online, the ordinance numbers will show you what the numbers are from 2005.”

DeRoche, “Would you like a glass of water down there?”

Koller, “In the State rules, it says they can’t exceed 96-decibels on public land. It says nothing about private land.”

Moegerle, “Then we are back to discussing decibels. I am not in favor of the Ham Lake language. I don’t think that is helpful and we would have to change a lot to get it to work.”

DeRoche, “They worked around ours and so did Oak Grove.”

Moegerle, “I like the part about exhaust and after market parts.”

Pratt, “That is a good point, it shows how difficult it is to draft an ordinance. Those would need to be defined. How is someone in compliance with the pipes and after market? In number 8 in this redline; this is sort of the land use way of going about this. In your zoning ordinance, you want to exclude uses of property in different zones of the City. The R1 and R2 are denser, so we should exclude this type of use. The problem with that is a one size fits all in the zoning districts.”

DeRoche, “If we create this ordinance, we would have to grandfather them in.”

Winter, “That is under the land use ordinance. If it made it a legal non-conforming use. This is not tied to our zoning or land use.”

DeRoche, “We put this ordinance into effect, you don’t think we will get challenged on that.”

Ronning, “What is the rest of the community interested in?”

DeRoche, "A public hearing you get public input and you find out what people are interested in."

Davis, "She came before council in September."

Ronning, "They are marketed for off-road use, not road use. That is what it is used for. It is not like they are doing anything wrong. If you were in Blaine, that would be a problem. When you are out in the middle of someone's 640, that isn't public."

Koller, "At State sanctioned races, they don't allow the after market exhaust."

DeRoche, "You could be running your chainsaw, lawn mower or having a party, that could be a noise nuisance. What is noise to you, it might not be to someone else? You may have to walk away for four hours."

Davis, "If we try to address it from the noise/nuisance, it won't be enforceable. We need it under the land use."

DeRoche, "When the original one came out, it was because someone built a track. So there was an ordinance put in place. I can't see doing that. We have 13,000 people in the City. We have two households having an issue with this. The rest of you people, we will make you all pay for it."

Ronning, "We try to fix something for two neighbors, and it affects everyone. Rather than correct the problem, they change the rules for everyone."

DeRoche, "Are we just putting a band aid on it?"

Moegerle, "How would this ordinance penalize you?"

Ronning, "That is just two of us."

Moegerle, "We haven't seen anyone here asking people to save our race/dirt bike tracks. It is a limited application ordinance. I don't think it penalizes a large amount of people."

Ronning, "What is the penalty?"

Davis, "Misdemeanor"

DeRoche, "What does it cost us to send a deputy out?"

Davis, "They are paid to be on duty, but they won't do decibel readings. All cities use the noise ordinance. Once city said noise is a nuisance regulated by the Anoka County Sheriff's Department. This is not an easy one. There are questions on both sides."

DeRoche, "What is the thought on a public hearing?"

Ronning, "It would be nice to have public input. Rather than neighbors complaining."

Moegerle, "What if only three or less show up?"

DeRoche, "At least it allows people to give an opinion."

Moegerle, "It has been on the agenda a number of times. Even Miss Knisley isn't here tonight."

DeRoche, "I told her that I was going to table it. Do you think that the average resident will bring this up on the internet?"

Davis, "That is just to show you what could be potentially done. You would need a draft or proposal."

DeRoche, "We have a town hall, they could ask it in the open forum or have some kind of a booth and talk about it. To see if there is any interest. We could put it out on channel 10. We are going to have this public hearing."

Davis, "Would it be better to have it individually. This might evolve into a single-issue item. If you have a public hearing, a lot people will come in."

Moegerle, "What will they look at? What is the hearing going to be on?"

Ronning, "They should hear the complaints."

Moegerle, "That would be a trial."

Ronning, "You are letting people know there are complaints in the community."

Pratt, "I am not sure if you will agree on this proposal, you are in still fact gathering mode, you would have people coming up and drafting it from there. If more changes are made, there may not be Council buy in and that defeats the purpose of the public hearing."

Moegerle, "When this came through there was a six month comment period. That would be another way we could approach this."

DeRoche, "I don't like making a law and then coming back and rescinding it."

Harrington, "Would the DNR have any more power than the ACSO?"

Davis, "They don't have jurisdiction on this."

Koller motioned to schedule a public hearing.

Pratt, "In work sessions how do you balance that."

Davis, "We just do a recommendation."

Pratt, "The next meeting would change."

Davis, "It can be discussed at that time."

Pratt, "You would bring this up at the next meeting for a creating a public hearing."

Davis, "Open as a discussion item, this is what we discussed in the work meeting and there as a motion for a public hearing."

DeRoche, "I will second it. The motion was made and we can't make a motion. Would everyone support that?"

Ronning, "Yes."

Harrington, "Yes."

3.0 B
Manufactured
Home
Ordinance,
Chapter 34
Floods,
Article VII;
Section 38-
20; and Under
Appendix A
Zoning
Ordinance

City Council received a request from Nancy Krueger, owner of property at 18467 Lakeview Point Dr. to consider amending the Ordinance regulating recreational camping vehicles. The Ordinance Committee discussed this matter at a meeting on October 28. This property is zoned R-1 and has a property tax classification of seasonal recreational residential. The property is 0.2 acres. Ms. Krueger is requesting the Ordinance be amended to allow the placement of her recreational camping trailer on this site.

We have references to Travel Trailer and Recreational Vehicles in several places in our code. Any modifications in one section of the code should carry forth into other relevant sections of the code. The recommended changes address these matters.

Article 34 – Floods, the placement of Travel Trailers is addressed, however, that is only in those areas that are on the general flood map. This should be changed so that it applies and be included in Article II, Chapter 38-20 as additional items. The proposed language in Article 34 and Chapter 38-20 should be the same. We should also include the same language in Appendix A, Zoning under General Development Regulations. This will keep the information consistent from one section of the code to another. The Changes in Article 34 is recommended as follows:

- Article 34, (3) a. 3 – Additions to the Ordinance as provided by the City Attorney
- Article 34, (3) b. 1 – Additions proposed by City Attorney with the Staff addition of Property Tax Classification status of Seasonal Recreational, vacant and improved, as an additional condition for exemption.

The definition of Recreational Vehicle/Travel Trailer is recommended to be included in Definitions section of Zoning Code Appendix A, Article 34 and Chapter 38.

Attached are maps that locate all the properties in the City that have a tax classification of Seasonal Recreational. Even though there are sanitation requirements in the proposed amendment to this Ordinance, allowance of placement of recreational camping vehicles on these properties could create consequences that have a greater impact than simply addressing the situation of an individual property owner.

Recommendation(s):

Staff recommends Council consider the changes, and if approved, direction to publish.

Davis, "The recommendation would be if this were allowed, 3A would be added and 1 under B would be expanded."

Moegerle, "First off, her concern under 3 we talk about travel trailers and vehicles. They are a subheading of recreational camping. Are we looking at a subset of camping vehicles?"

I don't have the answer to that."

Davis, "Can you expand that?"

Moegerle, "We have seventeen sections of our code talking about recreational vehicles. The definition of travel trailers and vehicles, they are a subset of recreational camping vehicles."

Davis, "This would be to deal with the subset."

DeRoche, "Here we are again, single person, I don't mean that by marital status. They have a trailer on the parcel. She had an existing outhouse that was grandfather in. It was significantly remodeled. She had consensus come in and put power in. The trailer hasn't moved in three years. This is another one of those ordinances that will affect a lot of people. A lot of these red lines, on the street that I live on, they all have nice great big homes on them. People bought the cabins and put up pretty big homes. I think if we do it with one, in Coon Lake Beach, there are a lot of little lots. If this goes through, we will have a lot of RVs pulling up. They will put in holding tanks."

Koller, "Are they all zoned seasonal recreational?"

DeRoche, "Most of the lots are that way, but mine was the first one homestead."

Koller, "If a lot is only twenty feet wide, you can't build on them. Isn't the setback six feet?"

DeRoche, "They can get a variance. I think a lot of what happens, like 143 Maple, there is another house that was tore down. They went in when one family moved out. They had the sewer that was on the road right of way. They didn't get approved, so he is just going to make a big garden. A lot of people sell it to the neighbor. If it is foreclosed on, they sneak in and get it cheap. There has been a lot of combining of lots."

Davis, "With the seasonal recreational, they might have a waste system that was functional. They house may have been torn down, but the waste system is still functional. This is similar to the last one that we don't create unintentional problems for the future."

Moegerle, "What if she puts in a travel trailer how does it violate the ordinance?"

Davis, "If you park a trailer it has to be on a lot that has a house, well and septic system and must be moved after two weeks."

Moegerle, "She didn't meet the ordinance how?"

Davis, "This lot doesn't have an existing home, septic system or well."

DeRoche, "She said she could maintain the outhouse on her own."

Davis, "It would need DNR approval and health department approval. It is within 75 feet of the lake."

Ronning, "How many of these lots might be available?"

Davis, "I believe there is 128 lots that have a seasonal recreational tax classification. They are all around Coon Lake/Beach."

Koller, "How many don't have a building on them?"

Davis, "It is hard to tell."

Ronning, "I went through the plats and aerial views of 20 of them. And all of them had homes. There is potential for a lot more of them."

Davis, "The outhouse is about 80 feet of the lake. It is in the shoreland district and would need DNR approval for modification."

DeRoche, "What is your take on it?"

Koller, "We have all of these lots that have seasonal recreational? Is this really big problem?"

Winter, "The red parcels do not have homes on them."

Koller, "If you do open it up for RVs, they won't leave the RV there for the winter."

Davis, "Some do and some don't."

Koller, "I have been around that neighborhood and some of those houses shouldn't be there either."

Moegerle, "What is her real problem?"

Winter, "Nothing allows her to have the travel trailer on that lot for an extensive time period."

Moegerle, "That is in the shoreland area or is it in Chapter 38?"

DeRoche, "The State came up with the shoreland stuff about ten years ago."

Moegerle, "Section 57 of the zoning?"

Winter, "It is in the flood page management ordinance, in section 58 under zoning."

Moegerle, "What provision is the issue?"

Davis, "Section 38-20, a recreational vehicle is permitted on a property that has a house, septic and well and cannot be occupied for more than three weeks in a two month period. It is the last sentence."

Winter, "In that other section, they must be highway ready, and the travel trailer must have no permanent placement."

Moegerle, "Would we just add recreational seasonal?"

Winter, "The question the council has, do you want people to park RVs at the beach? If you do, are there certain things you want included on that."

DeRoche, "I think it is a can of worms."

Koller, "I think it is ok, not all of the lots can be built on."

DeRoche, "Some people own multiple lots."

Koller, "My father-in-law had one that burned, and he just ended up walking away. If you could put a camper on that."

Winter, "What you want to protect, you want them to be there without a septic system."

DeRoche, "What are you going to do when peoples home values drop. There are nice houses and shanties. You start peppering in different things. There are houses we have been trying to take care of."

Moegerle, "It is all in how you are going to police it. When this first came up people might want to be there in the winter. How can we draft this so people can use their land without affecting the lake? The \$500 limit on economic development of the property. You can't put in a septic system or treatment for \$500.00. You can't solve the problem."

Davis, "If you can't get a approved septic system, but you can get a holding tank. You might get people who want to put a holding tank in themselves."

DeRoche, "I will just drain my system at night and no one will know. We are going after people who have non-compliant system. We will let people come in away. Are they going to have people come in and pump it? People come on a weekend and they stop on their way home and pump it."

Ronning, "Let's move on to an easy one."

DeRoche, "One person, but now we are going to change things. If one person comes in, are we going to make a change for them."

Davis, "If there is the chance it will affect others, would be worthy then."

Moegerle, "She could bring her travel trailer up everyday and that would be permitted?"

Davis, "Yes."

Moegerle, "The problem with that last sentence, it talks about storage purposes. We would need to add a section about habitation purposes; it could be require them to be self-contained. They could be pumped. If we had a requirement that they are self contained for public health septic. How frequently would you have to pump them and then provide proof?"

DeRoche, "We were going to have people who have tanks to have them pumped on an annual basis."

Koller, "You already have non-compliant systems around there."

DeRoche, "My system is seven years old. Hiawatha beach had an issue that one was red tagged."

Moegerle, "If it is self contained, and zero tolerance on gray/water dumping."

Winter, "How do you enforce it?"

Moegerle, "You will get complaints, the smell alone will be the clue. I don't want it to become a trailer park."

DeRoche, "At one point the City was buying up the lots. That is why there are so many City owned parcels."

Davis, "There were some acquired through tax forfeiture."

Winter, "We are seeing buying their neighbors lots."

DeRoche, "I think it will devalue some of the nicer homes."

Moegerle, "If there was a public hearing, and variance. If it were a permit, and a public hearing, then the owners of the large house. Of course what is the value of empty land that you can't improve?"

Davis, "Property that had lake front access, there is very few of those that have lake front access that are listed as vacant."

DeRoche, "The Community Center owns a lot of the area around the lake."

Davis, "A lot of these are interior lots. Some of them, down on Birch or Cedar, even those are listed as seasonal recreational they are wetlands. If you looked at these, most of those south of 187th Avenue are wetlands. Those north would need to be looked at. But they are not lake front properties."

Koller, "If we don't allow them, they will still be there anyway. They bought it for recreational property. That isn't right."

Moegerle, "Can we talk about this at the Council meeting?"

Koller, "Sure."

Adjourn

Moegerle made a motion to adjourn at 7:30 p.m. Koller seconded; all in favor, motion carries unanimously.

Submitted by:

Jill Anderson
Recording Secretary