

EAST BETHEL CITY COUNCIL MEETING

SEPTEMBER 3, 2014

The East Bethel City Council met on September 3, 2014, at 7:30 p.m. for the regular City Council meeting at City Hall.

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

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

1.0 The September 3, 2014, City Council meeting was called to order by Mayor DeRoche at
Call to Order 7:30 p.m.

2.0 The Pledge of Allegiance was recited.

Pledge of Allegiance

3.0 **Moegerle, “I’ll make a motion to adopt tonight’s agenda but I would also like to add, under 7.1, Discussion of Lexington Avenue Repair.”**

Adopt Agenda

DeRoche, “Make that D? Or, E?” Moegerle, “Either one, E is fine.”

Ronning, “I would just to make known, I am going to have some discussion. I intend to do it during my Council Report on 553 Lakeshore.”

DeRoche, “Any discussion? Or, we have a second?”

Harrington, “I’ll second.” DeRoche, “Any more discussion? All in favor?” **All in favor.**
DeRoche, “Opposed? Hearing none, motion carries.” **Motion carries unanimously.**

4.0 None.

Presentation

5.0 Joseph Alvite, 4740 Lexington, Ham Lake, “I’ve been part of this community for more than
Public 40 years. I have lived in East Bethel for many, many, many years. So, what brings me here
Forum today, I was in the hospital, I just got out a couple of days ago, but this is in relation to a
 dog bite. What I want to tell you, that this thing is wrong. I’d like to cover this mess
 because Mr. Bohland is claiming that my dog bit him. What happened was that he kicked
 my dog and my dog chose to defend himself. But, this is not the first time that Mr.
 Bohland’s tried to do something like this. This is how Mr. Bohland makes extra money
 from time to time.”

DeRoche, “Sir, can I, and I’ll get a legal opinion, but you’ve got to really be careful what you say.” Alvite, “Yes, absolutely.” DeRoche, “Well, I want you to understand because there’s the possibility you could get some action for slander. Not us, but this goes out over the internet, it’s done in minutes, and it is also on disk. So, I want you to be aware of that. Am I correct Mr. Vierling?” Alvite, “Whatever I’m saying, I have the documentation to back it up.” DeRoche, “That’s fine, but if I didn’t say something or tell you...” Alvite, “No, I do appreciate you...”

5.0 Alvite, “So, essentially, what Mr. Bohland is trying to do is trying to sue Gayle because he
 assumes that the dog belongs to her. So, the documentation that I have here proves that I

am the owner of that dog. I should have been the one to be notified that my dog was dangerous, which is a small terrier and it's a really loveable dog that has not bitten anybody. He gets along really well with kids and adults alike. I am retired and I travel back and forth to Mexico and actually, I purchased Gringo, that's his name, in Mexico. I have documentation here for vaccinations done in Mexico and also when I lived in 415 Cedar in Coon Lake. My dog was registered here in the City of East Bethel. But, then, I moved to a different location. Right now, I'm living in Ham Lake. Not too far.

So, this thing is wrong. I should have been the one to be informed that my dog was dangerous, which he is not. In fact, I'm extremely upset that this person kicked my dog because he was just playing with a whole bunch of kids. So, the police report, what Mr. Bohland is trying to do, he's trying to do is use this fine Council as a 'rubber stamp' to be able to blackmail Gayle. So, he should blackmail me. He's tried to get \$5,000 out of Gayle. It's an insurance scam. Gayle is not going to pay that. He's going to try and get the money out of Gayle's insurance. Well, this whole thing is wrong and I would like to have it addressed. And, if the Council wants to accept the responsibility and the liability for something like this that is really wrong, if you guys want to 'rubber stamp' that my dog is dangerous, well, I think that it needs further investigation. I think that Mr. Bohland should be here with his lawyers. Thank you very much."

DeRoche, "Well, I don't think, if I recall, that he was determined to be dangerous because had he been declared a potentially dangerous dog, there would have been several things that would have happened. Number one, you would have had to get a \$300,000 rider on your insurance. You would have had to post 'Dangerous Dog' signs front and back yards. He would have had to be muzzled any time, or could be muzzled any time, he leaves or goes outside. There's many, many more things. I don't think that was the determination."

Moegerle, "In fact, the minutes that we approved for August 6 of 2014, Jack just watched the DVD on this issue, in fact it says that my motion was that he was a potentially dangerous dog. Although the context before that indicates I did not find that it was potentially dangerous. But, the minutes do indicate that that was our finding. So, it seems that we need to make a correction. It's what the minutes say." Vierling, "I agree with you. The minutes do say that."

Moegerle, "But, that was not the motion. Jack, you just watched that. Do you agree?"
Davis, "Let me play this so everybody can hear it."

At this point in the meeting, the DVD from the August 6, 2014, meeting was played indicating: *Moegerle, "I don't think the dog should return and I'll make a motion to the effect that the dog shall not return to the City of East Bethel at any of Ms. Murphy's properties." Koller, "I'll second that." DeRoche, "Any discussion? All those in favor?"* Five aye votes. *DeRoche, "Opposed? Hearing none, motion carries. That's it, so now we'll move on."*

Davis, "So, the motion essentially was, though I think the 'potentially dangerous' term was used prior to that, the motion was that the dog was not to be at any of Ms. Murphy's properties or return to the City of East Bethel."

Gayle Murphy, 814 South Lakeshore Drive, "The only reason that I said that I would agree to that is that Gringo had already been removed. All right? Number two, I never ever thought that he was a dangerous dog but I felt it a moot point for the Council to go through

all of that if I just agreed that the dog would not return. I always have stated that, 'How can you determine a dog to be dangerous when he's been kicked?' That's provoked. How do you determine that to be unprovoked? Randy Bohland states himself, 'It's of the essence, it's semantics, or subjective, whether somebody states that he shrugged the dog off.' Let's define what 'shrugged' is. You know? I guess 'shrugging' is kicking.

I didn't want to bring my children into this but they were all there. They witnessed it. They've had to experience this as a result. Number two, if you look at the letter that was received by the attorney trying to sue me, it does not state Kyrstin because Kyrstin was not bit. That was brought together after this whole thing happened. There was never a police report. It's not applicable. It's not on him trying to sue me. Therefore, he's trying to put two things into place because he knows that's the process to be deemed a dangerous dog and then to try to sue.

This dog is not dangerous. To try to alleviate any more stress or any more problems, he was removed. I talked to you the very first time we spoke and you said, 'Okay, it seems a moot point.' We weren't going to go any further if the dog wasn't in the City. I come to the meeting, I do everything I can to be as helpful as I can because Mr. Alvite wasn't available to partake in the hearing. At that point, I stated clearly when they suggested the dog not come back, I would agree to that. At this point, I don't even feel that's right because it gives some sort of an idea that the dog was dangerous. There was never a finding that he was dangerous. How can you say it was an unprovoked bite? Unprovoked incident when the man kicked the dog? That's insanity. How do you say that's unprovoked?"

Moegerle, "And, I think, what we just heard was that we didn't say that it was a provoked. In fact all we said was that the dog should not return. That's how I heard..." Murphy, "No, it states, talks, about being provoked, or not unprovoked I mean."

Moegerle, "It does in the motion that was transcribed and that was in the minutes that we approved. But, that is not what I said and that was not the motion that Mr. Koller seconded. So, I appreciate your point, that the minutes say this, but that was not what the motion was and that was not what was said."

Murphy, "And, that's what I thought I was agreeing to, the fact that he just wouldn't return but there was no determination on a dangerous dog, just to make an easy resolve to the whole matter." Moegerle, "And, that was what my motion...the question is, how do we correct this based upon what we just heard from the actual meeting?"

DeRoche, "I have one question here. Gayle, were you here on the 6th when this first thing came to be?" Murphy, "No, I think I was out of the country, wasn't I when you first talked about this, Jack, in order to notify me?" Davis, "August the 6th you are referring to, is that correct Bob?" DeRoche, "Yeah." Davis, "Yes, she was here."

Moegerle, "And, you attended, that's when the hearing was." Murphy, "Right. I was here and you know when you brought the motion about the dog not being here, he was, and this was the point I said from the beginning, this incident happened on the 6th, he wasn't on my property after the 8th. And, when I talked to Jack, even when he notified me that he'd been trying to contact me through the mail and I'd actually been out of the country, that the dog was already gone. You know, at that point, it was a moot point. I mean, he's not going to be in the City. There's no issue. It was provoked. I mean, he, himself states that he 'shrugged' the dog."

DeRoche, "Well, we're not going to re-try this thing, or rehear it. You've made your point and we need to get a legal opinion." Murphy, "Is it my understanding, and pardon me, was it not my understanding when I agreed that I would agree to him not returning, that it was not that he would not be determined to be provoked? That that was the agreement? That it would then be resolved? That's my understanding." DeRoche, "I don't recall anything about anything being provoked."

Vierling, "The motion that was made was not a function of any agreement with anybody in the audience that I can see." Moegerle, "Right. No."

Murphy, "I said I would go along with that. Remember?" Moegerle, "Well, that doesn't effect what we say. Yeah."

Vierling, "I will tell the Council this. Practically speaking, you are not in a position to reopen that hearing. Theoretically, it could be done under some extraneous means. But, that particular matter was preceded by a public hearing and we're not here to re-hear the matter. If you are going to re-hear the matter, you have to republish and reopen and let everybody else come back in. I don't know that you need or want to do that. If there's a feeling that the directive that is reflected in the minutes is inaccurate as to the action that was really taken, you can theoretically correct those minutes but you can't do it in such a fashion that it's going to change what was done. So, from that perspective, if you want to correct the written minutes that have already been approved, have them conform to the transcript of what was actually said at the time, the protocol to do that is going to be first to make a motion to suspend the application of *Robert's Rules*, which has to prevail by a 4/5^{ths} vote for purposes of reviewing and correcting the August 6th minutes. If that succeeds, then there'll have to be a motion to conform that portion of the approved minutes to the actual transcript using the words that were uttered and said on the transcript."

Moegerle, "And, is that going to be a sufficient motion to say what was uttered and said? Or, do we have to repeat it?" Vierling, "No, the Recording Secretary or the City's staff will have to go back to the recorded meeting and take a verbatim recitation of that particular section relative to the motion."

Ronning, "That's not something that we're going to get into and finish tonight." Vierling, "Well, I think if it's merely a procedural matter to correct the minutes to the verbatim transcript of what was said, that you can do. But, it's a two-step process. If somebody wants to reopen the whole hearing, you're going to have to do the same type of procedure, vacate the entire proceedings, re-notice everything, and have another hearing in front of us."

Moegerle, "So, after those two motions, then we make a motion to reinstate *Robert's Rules of Order*?" Vierling, "No, you're just doing a motion to suspend the *Rules* for the purpose of that issue." Moegerle, "Okay."

Moegerle, "I make a motion to suspend the *Robert's Rules of Order* for the purpose of correcting the minutes from August 6, 2014." Koller, "I'll second that."

DeRoche, "Now, before we go through that. I want to understand what the verbatim versus what was said. I don't recall anything being said about provoked or unprovoked and I think my comments at the last meeting were, 'I'm not going to speak for Randy, he's not here. I wasn't at the place when everything happened.' So, we can't, number one, we can't throw

out whatever the officer said in his report.”

Murphy, “You also had the testimony of the witness that was in the police report that came to the meeting as well.” Vierling, “We’re not here to talk about the testimony.”

DeRoche, “Okay. I’m trying to do this without causing a lot of problems here. Because, if the issue is that the dog was provoked or you’re saying he was provoked and Randy’s saying, ‘Well, he kicked the dog off.’ I wasn’t there when it happened. From what I know, you weren’t there when it happened.” Murphy, “Yes, I was. I was there when it happened.” Vierling, “In either event, ma’am, we’re not here to discuss factual disputes over the incident. The motion that’s being made...”

Murphy, “Can you clarify what that is? I guess I don’t understand exactly what you’re trying to say.” Vierling, “We’re not here to have a discussion over ‘he said / she said.’” Murphy, “I know, but I’m trying to ask you. By saying that the correcting of the minutes, what are you saying the outcome of that would be? I’m trying to understand.” Vierling, “If the motion that I haven’t heard yet from Council, comes forward, I anticipate it’s going to be that the Recording Secretary is going to go back and conform the minutes to actually what was said on the tape recorded transcript of that meeting relative to that motion.”

Murphy, “So what would the outcome be? I guess I don’t understand what that ruling was.” Vierling, “The Recording Secretary will have to go through, that’s their position, their job, to look at that and to do a verbatim transcript of what occurred.” Moegerle, “He means they’re going to transcribe what we just had replayed from the DVD and that will be what the minutes will be updated to.”

Murphy, “I’m trying to find out because while I’m trying to clarify what...” Moegerle, “And, nothing was said about ‘provoked.’ We just said what we said, which was nothing about provocation, that the dog would just not return to East Bethel.”

Murphy, “But they had a findings that he was determined to be a dangerous dog.” Moegerle, “And, that is what we’re saying is incorrect and that is what we are attempting to do. That will just go away as that, ummm,...verbatim does.”

Ronning, “Before we make ‘promises’ about what’s going to happen, we really need to know what the verbatim is. I almost think you were asking what did the *Robert’s Rules* mean. These meetings are all conducted under a set of *Robert’s Rules of Order*. The Congress, the Senate, everything is supposed to do that. So, what he’s suggesting is that we suspend *Robert’s Rules* so that we can do things legally. But, I’d caution against any promises on what the outcome is. It is bound to the statements.”

Vierling, “The statements, and the Recording Secretary is the one that will make the initial determination of the words that were actually uttered.” Moegerle, “Very good.”

Murphy, “And, what I’m trying to say is if that’s the case, then maybe it’s better if they serve Joseph because he’s the owner and according to the way that it’s written is, he’s going to be served.” Vierling, “We don’t have any control over the dispute between...” Murphy, “No, but the City’s way, the way that the City states it...” Vierling, “The City is not involved in that other than we’ve...” Murphy, “It is by when, who’s serving the papers. The owner’s supposed to be served and it’s by so many days to the hearing. The same way that they served me but I was not the owner.”

Moegerle, "Let me call the question."

Vierling, "And, we're not debating over it." Davis, "I would just say one thing and maybe it will clarify this. In the police report, it stated that you were the owner and you said you were the owner in the police report." Murphy, "No, it's been corrected." DeRoche, "Gayle, we're not here to argue." Murphy, "I'm trying to tell you that the police report has been corrected. I contacted them and I clarified it and it has been modified and corrected because there was a misunderstanding. So, the police report states that he is the owner." Vierling, "But, ma'am, we're not here to...you're asking for something that's going to require them to reopen the whole hearing and that's not going to happen. Know that if you read the ordinance, it talks about anybody being an owner defined as somebody who actually, legally owns a dog or who harbors, or who the dog resides with. If you had the dog at your residence at that point in time, technically, you may be an 'owner.' In any event, we're not going there at this point in time. That's not an issue that this Council is addressing right now."

DeRoche, "All right, the question's been called. All in favor of the motion to..." Ronning, "I've got a question." Moegerle, "Thank you." DeRoche, "All right, the motion is to have the minutes and the..." Moegerle, "No, no." Vierling, "The motion is to waive the application of *Robert's Rules*, to suspend them for the purposes of this motion on correction of the minutes." DeRoche, "What he said. All in favor?" **All in favor.**

DeRoche, "Opposed?" **Motion carries unanimously.**

Murphy, "I have a question. I thought the whole point of that hearing was for us to come in and to prevent, to give evidence in the favor or not favor of why you objected to the dog being determined to be dangerous. I'm trying to understand what happened for my purposes. I still don't understand." DeRoche, "We're not going to re-do this tonight."

Moegerle, "Ms. Murphy, do you remember what the motion was that I made back on August 6th?" Ms. Murphy, "What I understood it to be was that we were agreeing that he wouldn't return and that was to the extent of it not a determination as a dangerous dog." Moegerle, "Exactly and you've been here saying that there was a determination that the dog was potentially dangerous. And, frankly, I agree that was not what it was. Please let us try to correct this. We are working very hard to do that, okay?" Murphy, "All right."

Moegerle, "At this point, I make a motion that we direct the Recording Secretary to make a verbatim transcript of my motion seconded by Mr. Koller and to update the minutes of August 6, 2014." Koller, "I'll second."

DeRoche, "Just for discussion purposes. They're not going to transcribe the whole meeting? Just this part?" Vierling, "No. Just that portion." DeRoche, "That's fine. Any other discussion? All in favor?" **All in favor.** DeRoche, "Opposed? Hearing none, motion carries. **Motion carries unanimously.**

Ronning, "There's some confusion here but I think what's attempted to be done is to give some reconsideration to what your concern is with the animal. The attorney explained, this is really the only way, legally, legitimately, to take this kind of an action. It's got to look confusion from that side."

Moegerle, “And, what I would suggest is to go home, you replay what was replayed up here, okay? No mention was made of potentially dangerous dog and it’s going to be verbatim what was said there. So, that, you’ll know that and is the best that we can do.”

DeRoche, “You’ve got to understand. Certain things have to go...well, I may not agree with it, but at this level, things have to be done in a certain step-by-step legally. We can’t just, because the minutes were out and they were okayed and agreed upon at the last meeting. I guess my question would be, why didn’t, you know, if you knew that it was wrong, then why didn’t you say something then before we agreed that the minutes were okay?”

Murphy, “I contacted Heidi, asking her if she understood correctly what my impression was. I asked the other people that had been here, Dawn and (*inaudible, off mic*), I asked what their thoughts were, what they thought had taken place, what was the context, and they all agreed. I called Heidi and I said, ‘This is what I understood it to be’ and she also agreed. I, at that point, I talked to Mr. Alvite and asked him if he could attend because I decided, really no sense why I was doing any of this. It’s his dog. Since he was available to come, I brought him so that he could be handling the situation, not me.”

DeRoche, ‘What I’m saying is the meeting was August 6th and there was, this is the second meeting after that. Once this meeting is done, then in two weeks, at the next meeting, these minutes from this meeting will come up, we’ll vote whether we’re going to accept them or not.’ Murphy, “Why would I have any understanding that they were going to be typed differently? You don’t go through and follow through the minutes and just happened to go back through to read it over and make sure of all the context. But, there’s no way that you would think they would be inaccurate. You know, it was.” DeRoche, “Well...” Murphy, Maybe (*inaudible, off mic*) can find out that the reason for the misunderstanding that can bring it to someone’s attention.”

DeRoche, “A motion’s been made and it’s been passed. Until we get verbatim and see exactly what was said, I’m not going to say one way or the other because my memory just isn’t that great.”

Ronning, “A public organization, commission sort of thing is not allowed to hear a case or evidence and such like that and make a ruling and then come back later and say, ‘We changed our mind.’ And, then come back another time and say, ‘We changed our mind.’”

Murphy, “What I’m trying to understand is, when we came that day, for the hearing, rather than going through a big debate whether or not we were determining dangerous or not and then opposing that evidence and going through the whole thing, it was, the motion was made that he not come back. That seems simple. So, what I’m saying is there was a hearing to go over all the things. Dawn testified. There’s still, how do you determine that the dog is dangerous based on him being provoked? A kick is not provoked?” DeRoche, “Excuse me, but there was a hearing because I opened the public hearing on potentially dangerous dog.”

Moegerle, “And, there was not a determination made that the dog was dangerous. Again, it’s the motion that passes. The motion, second. And, what is passed is what is the determination. Now, you recall what was said. We heard it here. That will be what will be transcribed and that will be the final decision. There was a hearing and that’s going to be the outcome. And, I think it’s the outcome that you’re saying you recall.”

DeRoche, "You know what, I apologize but we're not going to spend the whole night on this. We have a lot of City business here to take care of."

Ronning, "I do have one question of you though, please. Did any of us up here make any commitments about what took place or what would be done?" Murphy, "I'm not sure what you are saying." Ronning, "Well, did any of us say..." Murphy, *(inaudible, off mic)*. Ronning, "That's what we did tonight. Did you have a conversation in which anybody would say that, 'You're right. We'll take care of this. We'll do such and such?'" Murphy, *(inaudible, off mic)* quite frankly, I think I'm being forced *(inaudible, off mic)*."

Ronning, "No, did any of us give you that impression?" DeRoche, "Ron, we've got to move on here. We could spend all night on this." Ronning, "Okay." Moegerle, "Yeah." DeRoche, "You know, without the minutes...we've got to get the minutes." Alvite, "Thank you." DeRoche, "Thanks for coming in Joe."

Ronning, "Mr. Vierling, is there a method they could appeal this at a later date with some veterinary communications indicating they've studied the dog and the dog is..." Vierling, "Any factual readdressing of the issue is going to require this Council to agree to vacate the entirety of the proceedings and reopen a new public hearing on the entire issue." Ronning, "It's all 'yesterday's news' but the problem with having a hearing is the guy didn't show up." Vierling, "Well, good, bad, or indifferent..." DeRoche, "But, that's why part of the determination that was made, he wasn't found to be potentially dangerous." Vierling, "Okay." DeRoche, "But, let's move on to 6.0, Consent Agenda."

**6.0
Consent
Agenda**

Item A Bills/Claims

Item B Meeting Minutes, August 13, 2014, City Council Special Meeting
Meeting minutes from the August 13, 2014, City Council Special Meeting are attached for your review and approval.

Item C Meeting Minutes, August 13, 2014, City Council Work Meeting
Meeting minutes from the August 13, 2014, City Council Work Meeting are attached for your review and approval.

Item D Meeting Minutes, August 20, 2014, City Council Meeting
Meeting minutes from the August 20, 2014, City Council Meeting are attached for your review and approval.

Item E Resolution 2014-31, Constitution Week
Staff is recommending adoption of Resolution 2014-31, declaring September 17-23, 2014, as Constitution Week in the City of East Bethel.

Koller, "I'll make a motion to approve the Consent Agenda. Harrington, "I'll second."

DeRoche, "Any discussion? All in favor?" **All in favor.** DeRoche, "Hearing none, motion passes." **Motion carries unanimously.**

7.0

Commission, Association and Task Force Reports

New Business

7.0A
 Planning
 Commission
 7.0A.1
 Preliminary
 Plat, Classic
 Commercial
 Park
 3rd Addition

Davis presented the staff report, indicating that at their regular meeting held on August 26, 2014, the Planning Commission recommended approval of the Preliminary Plat for Classic Commercial Park 3rd Addition located at the intersection of 187th Lane NE and Ulysses Street NE, directly south of Aggressive Hydraulics.

This proposal is part of the continuation of the platting of Outlot "A" in the Classic Commercial Park. CD Properties North, LLC is requesting the platting approval.

Utilities and street improvements are in place and no new additions of these systems are required. All floodplain delineations, wetland designations, and other potential impacts for all of Outlot A were considered and addressed at the time the Aggressive Hydraulics Plat was reviewed and approved. The storm water ponds in the Classic Commercial Park have been sized to adequately handle runoff from this plat and future plats.

Staff and the Planning Commission recommend approval of the Preliminary Plat, Classic Commercial Park, Third Addition and request approval of the same from City Council.

Koller, "I'll make a motion to approve the Preliminary Plat, Classic Park Commercial Park, Third Addition." Moegerle, "I second."

DeRoche, "For discussion purposes, I just have one quick comment. Again, now, we're looking to reclassify this and I'm just kind of curious. How much discussion was had about the increased traffic or potential for that when right now we're still in the middle of trying to figure out how to route or come up with a different route so we have two ins and two outs to that sewer and water district. I guess without reading the Planning Commission minutes, I don't really know how much thought was given to that. But, anytime we're doing something, I think we have to look at the infrastructure."

Ronning, "Ron, could give a little bit of a description what the discussion was there? What the thoughts were?" Koller, "Basically what they wanted to do was change the zoning. The owner of the property has someone interested in buying it. But, it needs to be Light Industrial. Light Industrial is, I consider that to be a step up because any manufacturing basis brings in higher paying jobs than most of your retail and fast food. As far as how many people will be added to the driving in and out? I don't know. That wasn't discussed."

DeRoche, "Well, I understand that probably, no one's really going to know until it happens. But, I think that's one of the things that has to be brought into the conversation. Seeing how it's, 'Well, we need another way in and out of there.' And, as we're moving along and changing things, how much more traffic is it going to bring and is it going to just make us try and find another way in and out? Kind of push it up against the wall and say, 'Well, geez, now we have to do something.' Whether we want to or not?"

Koller, "Well, we need to get that done anyway. You know, we can't, if we just don't allow any expansion in the Business District until we get the roads done, well, we're probably going to miss some opportunities."

7.0A.1
Preliminary
Plat, Classic
Commercial
Park
3rd Addition

DeRoche, "But, that's not my point here. It's not that I'm against moving it up. It's, was that brought up in the conversation as far as the infrastructure for traffic." Koller, "It was brought up but not very much. They discussed it a little." DeRoche, "All right. That's what I want to know."

Ronning, "It would be out of their 'hands' to discuss. It wasn't on their agenda anyhow, was it?" Koller, "No. It wasn't. I think the biggest problem in and out of that place is with Shaw's heavy trucks. I think last time I was back in that area, there was at least 40 semitrailers parked there and I don't know how many trucks. That's a lot of heavy vehicles and that's going to block it up no matter what we do."

Ronning, "Jack, one of my last recollections is the City sent a communication to the State requesting a written response regarding 185th." Davis, "We did. We had a meeting with them on the 28th of July and I followed up approximately a week ago with our Mn/DOT North Metro Rep and asked for a response. I haven't heard back from that yet so I'll continue to follow up until we get an answer."

Ronning, "That was regarding an ingress/egress to 185th?" Davis, "That's correct. A right in/right out only on Highway 65."

DeRoche, "Well, that's the only question I had, whether that was part of a discussion. Any more discussion?"

Harrington, "I just know the traffic's going to get worse. I mean they started that new bus service over there an last week there were between 30 and 40 cars. I'm sure once things get going here, it's probably going to get a lot busier over there." Moegerle, "It's a great report. Thank you. I wondered how that had gone. Thank you Tim."

Ronning, "It adds to the complexity of the problem, which is just the 'facts of life.'"

DeRoche, "Okay, that being said, all in favor?" **All in favor.** DeRoche, "Opposed? Hearing none, motion carries." **Motion carries unanimously.**

7.0B
Economic
Development
Authority

None.

7.0C
Park
Commission

None.

7.0D
Road
Commission

None.

7.0E
Discussion of
Lexington
Avenue
Repair

Moegerle, "As we all know, Lexington Avenue has been under some repair with regard to the culverts. The paving right now is removed and we have a lot of potholes."

Moegerle, "I would make the motion, at this time, that staff send a letter to the County urging them to proceed to fill the potholes and pave the road as quickly as possible because it has been extremely inconvenient for a variety of reasons and particularly with the potholes." Ronning, "For discussion I'll second that."

7.0E

Discussion of
Lexington
Avenue
Repair

Ronning, "I guess my discussion would be, do we have a schedule of...if this is something they're scheduling anyhow, it just, another 'rock on the pile' to upset somebody." Moegerle, "Well, the holes are huge." Ronning, "Understandable. But, if they have it, if we don't know it's scheduled and they do it next week, we're going to be..."

Davis, "The information we received was once the culvert installation was complete, they would begin the overlay work. I have a scheduled call with Mr. Fischer tomorrow on another matter and I can let him know of our concerns about the potholes and inquire about the schedule and urge them to go ahead and make these minimal maintenance things done as quickly as possible. I'm sure that he'll be more than cooperative in getting that done."

DeRoche, "Well, I called Jack after I went through there because I talked to the people that had done the culverts and asked them what they were going to do. At that time, they were smoothing over and he said, 'Well, you know, they did it right before the holiday. You know, we're not going to work on the holiday and now we're smoothing them over.' They actually had them somewhat decent up until that rain again." Moegerle, "Yes."

DeRoche, "But I'm not going to 'beat' the County up over it because they haven't had a chance to really do anything." Moegerle, "Well no, but if it continues to rain, we need it... filled the holes in. It's a nightmare. It would be a nice letter expressing our concern and that's my only point."

Davis, "I think probably by the time we got the letter to them and they received it, it would probably already be done. I would recommend that you let me talk with Mr. Fischer tomorrow and see what we can get done via a phone call. I'll copy everybody with an e-mail on the results." Moegerle, "And express our interests as a Council." Davis, "Yes."

Ronning, "I'll make an amendment to the motion to accommodate what Jack just said."

Vierling, "I think you can, if you wanted to, withdraw the motion."

Moegerle, "I withdraw." Ronning, "I withdraw the second."

Ronning, "Good job, Jack."

**8.0
Department
Reports**

8.0A

Community
Development

None.

8.0B

Engineer

None.

8.0C

City Attorney

None.

8.0D Davis presented the staff report, indicating that as a result of budget discussions conducted
 Finance at Council work sessions in July and August, City Council agreed in principle that the
 8.0D.1 preliminary property tax levy for 2015 be set such that funds are available to accomplish the
 2015 goals and objectives identified in those meetings.

Preliminary
 Budget The proposed preliminary 2015 General Fund Budget is \$59,900 more than the 2014 budget
 8.0D.1.a. or an increase of 1.2%.

Resolution
 2014-32, Set A General Fund levy of \$4,051,600 is necessary for 2015, which is \$1,150 more than the
 Final Levy & 2014.
 Budget Date

8.0D.1.b. To service existing debt, a market based debt levy of \$127,000 is required to meet the debt
 Resolution service requirements for the 2013A Public Safety Bonds issued for the fire station and the
 2014-33, Set weather warning sirens and a tax capacity based debt levy of \$180,000 is required to meet
 Preliminary the debt service requirements for the 2008A Sewer Revenue Bonds.

Levy &
 Budget 2015 Due to the debt service requirements for the 2010A and 2014A bonds for the Municipal
 Utilities Projects, debt service levies of \$487,000 and \$330,000 have been incorporated for
 2015 for repayment of interest on these bonds.

Overall, the 2015 Preliminary City Levy is projected to be \$5,175,600 or .9% greater than
 2014 Levy.

The preliminary budget must be submitted to Anoka County by September 15, 2014. The
 preliminary budget can be reduced after this time but not increased prior to the adoption of
 the final budget in December of 2014.

Staff recommends adoption of the preliminary levy and budget and submission as such to
 the County by Resolution on or before September 15, 2014, and approval of Resolution,
 which are attached, 2014-32, 33, 34, and 35.

**DeRoche, “Well, with the supplements that were provided with the language change, I
 move that we move forward with the Preliminary Budget.” Koller, “I’ll second.”**

Vierling, “The resolutions that are in front of you, Council, should be acted on individually
 under the minutes.” Moegerle, “For clarification, are you moving to approve Resolution
 2014-32?” DeRoche, “Let’s see here.” Davis, “That would be the first resolution that
 approves the date to set the final Levy and Budget date.” DeRoche, “That would be the one
 then.”

Ronning, “Second. Or, was it...” Moegerle, “It was already seconded.”

DeRoche, “Any more discussion? Or, any discussion on it? All in favor?” **All in favor.**
 DeRoche, “Opposed?” **Motion carries unanimously.**

**Moegerle, “I make a motion we adopt Resolution 2014-33, A Resolution Setting the
 Preliminary Levy and Budget 2015.” Koller, “I’ll second.”**

DeRoche, “Any discussion? All in favor?” **All in favor.** DeRoche, “Opposed? Hearing
 none, motion passes.” **Motion carries unanimously.**

8.0D.1.c.
Resolution
2014-34, Set
Preliminary
EDA Levy &
Budget 2015
8.0D.1.d.

Moegerle, “I make a motion we adopt Resolution 2014-34, A Resolution Setting the Preliminary Economic Development Authority Property Tax Levy and Budget for 2015.” Koller, “I’ll second.

DeRoche, “Any discussion? All in favor?” **All in favor.** DeRoche, “Opposed? Hearing none, motion passes.” **Motion carries unanimously.**

Resolution
2014-35,
Consenting to
HRA No Tax
Levy for 2015

Moegerle, “I make a motion we adopt Resolution 2014-35, A Resolution Consenting to the Housing and Redevelopment Authority in and for the City of East Bethel adopting a 2014 Tax Levy Collectible in 2015 as Zero. Koller, I’ll second.”

DeRoche, “Any discussion? All in favor?” **All in favor.** DeRoche, “Opposed? Hearing none, motion passes.” **Motion carries unanimously.**

8.0D.2
2015 Law
Enforcement
Contract

Davis presented the staff report, indicating attached is the proposed 2015 Law Enforcement Contract that was presented by Sheriff Stuart and discussed at the July 9, 2014, City Council Work Meeting. There were no directions as to selection of other options for the contract after the presentation.

The contract as presented would retain the same level of service for 2015, which is 36-hour per day coverage with a 20 hour per week CSO coverage. Total cost of the proposed 2015 contract will be \$1,016,071. This represents an increase of 3.5% over the 2014 contract amount of \$981,312. Contract cost increased due to County increases in wages and benefits and PSDS costs, which is the Public Safety Data Systems that was just implemented by the County.

Staff is recommending Council consider approval of the 2015 Law Enforcement Contract as presented

Harrington, “I make a motion for approval of the 2015 Law Enforcement Contract, as presented. Koller, “I’ll second.”

DeRoche, “Any discussion? All in favor?” **All in favor.** DeRoche, “Opposed? Hearing none, motion passes.” **Motion carries unanimously.**

8.0E
Public Works
8.0E.1
Retro-
Reflectivity
Sign Project

Davis presented the staff report, indicating the Manual on Uniform Traffic Control Devices of the Federal Highway Safety Administration establishes standards for traffic signs on public roads. Recently adopted regulations for the Manual on Uniform Traffic Control Devices now require all agencies/municipalities to adopt a sign maintenance program, which meets the new minimum retro-reflectivity requirements for traffic signs. All agencies/municipalities that own and maintain traffic signage are required to meet these new requirements.

Agencies/municipalities are required to establish and implement a sign assessment or management method to maintain minimum levels of sign retro-reflectivity. City staff have drafted a street sign maintenance program that meets the requirements of the Manual on Uniform Traffic Control Devices. The City Council reviewed a previous draft on December 21, 2011, but do to the uncertainties of the changing compliance dates, tabled the discussion until a final compliance date was established. The current draft reflects the changes made to the compliance dates and program requirements.

8.0E
Public Works
8.0E.1
Retro-
Reflectivity
Sign Project

The signs required to meet the retro-reflectivity standard include regulatory signs (which are stop signs, speed limit signs, and yield signs) and warning signs (which are signs with yellow or orange background). Street name signs, no parking signs, and any sign with a blue, brown, or green background are not included in the requirements. The Public Works staff has already incorporated many of the practices into their sign maintenance program and has begun replacement of signs that clearly fall below the minimum standards.

The City currently budgets \$8,000 annually for street signs and road markings. The budget includes replacing damaged and stolen signs as well as replacing outdated signs. The current budget has been meeting requirements but may need to be increased beyond 2015 to meet the schedule of this mandate.

Staff recommends Council approval of the mandated Street Sign Maintenance and Retro-Reflectivity Policy.

Moegerle, “I move that we approve the Street Sign Maintenance and Retro-Reflectivity Policy.” DeRoche, “I second that for discussion purposes.”

DeRoche, “Now, if memory serves me right, we did discuss this in 2011; however, the two methods I think that we talked about were a little out-dated and kind of impractical. Have they figured out a way to actually do this?” Davis, “The methods for evaluating the signs are still the same. They essentially require that an inventory be made at night by a person who’s been trained to recognize the reflectivity differences. There’s a chart that you’ll have and one of the people that has to do this has to be over 60 years old. So, that’s essentially the process for evaluating our signage issues. Someone that’s over 60 will have to go out over a period of several early-morning or late-night hours to evaluate, basically, the stop signs and speed limit signs and yield signs at our intersections.”

DeRoche, “Well, I don’t know, can it be one of us?” Ronning, “How about Ken?” Davis, “We can all get the color chart and we can all take a ride if you qualify for the age.”

DeRoche, “Well, it’s either that or we have to hire somebody.” Davis, “I don’t think we would need to hire someone. I would certainly be willing to participate for some early morning hour rounds. I think I’m old enough. Once we get started on this, we’ll be able, probably, to incorporate some volunteers to assist us in this matter.”

DeRoche, “Do you have any idea how many signs we may have?” Davis, “Nate is looking at that and he will have a report to the Roads Commission at their meeting in September. But, it could be a fairly significant number. It will be in the hundreds.”

DeRoche, “Now, wasn’t there some kind of a radar gun? It was like a radar gun but it was a reflectivity gun or something that you...” Davis, “Yes, that was one of the processes that was proposed back in 2011. It was a meter to measure the retro-reflectivity. Here again, those things are somewhat sensitive and have to be calibrated so we’ll probably choose to use just a visual observation technique.”

DeRoche, “Now is this just City signs? Or, City and County?” Davis, “Every one that maintains their own signage has to comply. City, County, State, so we will be doing those intersections and signages within the City.”

Ronning, “I’m 5014, that’s close. So I’ll give you a hand with that as well.” Davis, “All

8.0E right.”

Public Works

8.0E.1 DeRoche, “All right. Any more discussion?”

Retro-

Reflectivity

Sign Project

Harrington, “Could you ask Nate for a price per sign? I was just kind of curious what, you know, you’ve got an \$8,000 budget but I’d be kind of curious what each sign...” Davis, “I’ll get him to get that stuff for the Roads Commission. He can do that. But, roughly speaking, a stop sign is going to cost probably around \$40.” Harrington, “Okay.”

Koller, “Is there any time limit for this?” Davis, “I think it has to be met by 2018 so, we do have some time. We can spread it out over a few years.”

Moegerle, “Since this motion was seconded for discussion, do we have to get a different second?” Vierling, “No.”

DeRoche, “Any more discussion? All in favor?” **All in favor.** DeRoche, “Opposed? Hearing none, motion passes.” **Motion carries unanimously.**

8.0F

Fire

Department

None.

8.0G

City

Administrator

8.0G.1

Commission

Appointment

Policy

Davis presented the staff report, indicating the Council is requested to consider amending the City policy for selection of Commission and Authority members. City Commission and Authority vacancies have been historically difficult to attract candidates for these positions. In order to encourage more applicants for Commission/Authority posts, Council is requested to consider an alternative option for interviews and screening of candidates. Eliminating the awkward and uncomfortable public interview/vote for approval process at Council meetings, that is the current practice for appointment to these volunteer positions, may be a means to address this problem.

Attached is the current City Policy for appointment to Commissions. It is recommended that Council consider changing “Commission” within this Policy to “Commission/Authority” as part of the title and within the body of the Policy and modify the existing Policy as follows in your packet with deletions shown by strike-through and additions italicized in red.

To basically summarize what is proposed, it’s proposed that the Commissions or Authorities themselves conduct the interview and then make a recommendation to City Council for appointment. There have been people that have told me they would be more than willing to consider serving on some of these but they don’t want to go through the interview process in front of City Council that’s going to be aired on Channel 10 and on the website and have the possibility of being voted down.

DeRoche, “I move that we make the changes to the Policy Existing City Commission Appointments.” Harrington, “I’ll second.”

DeRoche, “For discussion purposes, I think it’s a great idea myself seeing how it’s the Commissions that will be working with the people. Some people just don’t want to stand up in front of a City Council. I guess I don’t blame them unless it’s the final hire. I’d like to get Ken’s input on this, if I can. What do you think Ken?” Moegerle, “Can you come to the microphone please?”

8.0G.1

Commission
Appointment
Policy

Ken Langmade, Park Commission Chair, "Well, I guess I don't really understand what you've got in mind." DeRoche, "Well, if there was an opening on the Park Commission, people would apply, they would do the interviews through the members of the Park Commission at the meeting, and then you guys decide if they're going to meet what the needs are. Then it would go before the City Council and then the City Council would approve it. Rather than having people come in, ten applicants come in, they interview with Jack, then they come before the Council and do interviews, and then we decide who's going to be on there. I think the Commission members themselves would probably be more in tune to what you really need to have."

Langmade, "Yes, I agree with you on that because I know in my position I've had different ones ask about how they could get on the Park Commission. Some of them, I would not recommend and others, I think would do a very good job. So, I think you have a very good idea there."

Moegerle, "I have a question from a legal standpoint on this. Wouldn't it be possible for this Council to interview applicants not in a public, not on the television? If that's the issue? People don't want to be publicly embarrassed if they don't get appointed. Is there a possibility that could be done prior to a Council meeting and then not aired?" Vierling, "First of all, if the Council's going to be doing the interviewing, it would be a majority of you there and it's always going to be an open meeting. So, if you have a Policy, and many cities do, that they publish or telecast all of their open meetings then you have that issue to confront. Could the Council establish an open meeting that wouldn't be televised for the purpose of doing that? Sure, you could."

Koller, "I kind of like the original here to let the Commissions pick the people they want in their Commission." Langmade, "Yes."

Ronning, "There are certain times when one or another of us opinion is worth more than the other and this is one, in my mind."

DeRoche, "Well, I think there might be more people willing to apply if they don't have to come up before City Council. Some people just don't want to speak in public. I mean it's different if they're at a Commission meeting but to stand up behind the podium, because I did it many times before I sat on this side of it, and it doesn't bother me. But, some people just can't articulate things well. Some people just think they don't sound right. I think they'll say, 'You know what, I don't even, I just don't want to do it.'"

Moegerle, "I guess my point of view is yes, for those people that's an issue. I don't know how many and what percentage of applicants would be a part of those. But, if people don't want to come before the Council because of the Council and the conduct and the questions that it might get, I think it's a totally different issue. I'm not sure that we can easily differentiate between those, you know, 'blushing flowers' that are afraid to speak up and which ones don't want to be in front of this Council because I've heard those comments. So, I'm a little bit concerned that we're making a big change where the change is not, should be in the Policy, but the change should be in the Council."

DeRoche, "I'm not going to get in this big debate about it. Other than the fact, I've never heard anybody say that it's this particular Council that they don't want to go before. I've heard them say that they just don't want to be in this kind of a forum." Moegerle, "And, I

Commission
Appointment
Policy

didn't say that it was this particular Council. But, that's just what I've heard."

Langmade, "I think in some cases, some people are just afraid of the microphone."
Harrington, "That is just what I was going to say." Langmade, "That's absolutely right."
Harrington, "Exactly."

Davis, "And the other thing it does, too, is eliminate that fear of rejection. It is awfully awkward and uncomfortable to come up here and be interviewed and then have to sit and be voted on, especially in a public forum. I think for a lot of people, it turns them off from that respect."

DeRoche, "What do you think Tom?" Ronning, "My thought is that this gives them a lot more input about what kind of person that can work with them. What kind of person can contribute. What would be a detriment to something. That doesn't happen very often, you don't get a chance to look at your own destiny. I think it's a good idea for you guys to...you know more of what you need than we do. In my opinion."

Koller, "Ken has been on lots of Commissions for years so he knows what to look for in a person where we don't know." Langmade, "Hopefully. I don't know if I'm that good."
Koller, "You know more about them than we do." Langmade, "Sure."

Moegerle, "And, again, I'm not 100% opposed to this but I guess I want to look at the ramifications of it. And, what we're doing as a Council is ceding authority to the Commissions and the Authorities, which I think is great. I think that the experience on the Commissions and Authorities are very valuable and that we should rely more on those people because they do have that expertise. My only concern is if they send us one candidate, you know and it's an 'up or down' vote, then we've created the same thing for whatever reason. And, Councils and Commissions have different points of view. So, I'm a little reluctant to say just 'a' 'an applicant.' It's a tough call because I think that the Commissions and the Authorities work hard. They're not honored and respected enough and choosing one of your own is a good thing but there may be reasons that the Council would have a differing opinion. And, then if we selected one person that the Council doesn't agree and of course, this Council doesn't want to 'rubberstamp' anything. A Council should not 'rubberstamp' things and we're kind of setting that up."

DeRoche, "Let's get to the point. It's like a campaign speech." Moegerle, "It is not. The point is that this puts the Council in the position of 'rubberstamping' what is then by the Council's and Authority's and I have heard this Council say, 'Well, we don't 'rubberstamp' things.' I think this puts us a little bit in that position. But, I do see where it honors the Commissions and the Authorities."

DeRoche, "I totally disagree. I think it's being made out to be a lot worse than what it is. I've always supported the Commissions but I think, personally, that they have a better idea of what and who they can work with and they should do the interviews because the Council does have the final say."

Langmade, "Well, would it be possible to have, like say, two or three choices and present that to the Council? Then the Council makes a selection from that. Would that work?"
Moegerle, "Well, with a selection through a resume or written document because I know that when we have people apply, there's a written document that they do. We'd have the recommendation, which may, you know, be there and then we could select. What works for

Commission staff?"
 Appointment
 Policy

DeRoche, "Well, you know, they're not 'beating down the doors' here to get on these Commissions. If this is going to help, take some of that fear, or whatever, away and more people are going to go, "Yeah, I'd like to be on the Commission but I don't want to stand up there and talk behind that microphone."

Moegerle, "But, eventually, they'll be sitting up here at this desk and they'll be behind a microphone." DeRoche, "Then so be it. With that I'll ask Jack your opinion and then I call the question."

Ronning, "Thank you Ken."

Davis, "My feeling is that we have problems attracting people to fill these positions. Anything that we can do that may attract more people, I think, is worth a try. This is a Policy. If it doesn't work or there's problems, it can always be changed back to the original or modified to some other extent. I think it bears the time to see if it's going to work and be beneficial. I personally think it will. I think the Commission members can then kind of get a better 'feel' for the people that they may have been assigned rather than having no input on the selection. I think it will make them feel more empowered too as to who they are going to work with and give them a better choice. Again, the final recommendation and the final vote is on City Council. The Commission would recommend a person and Council could vote them in or out."

DeRoche, "All right, with that said, I call the question. All those in favor?" **All in favor.**
 DeRoche, "Opposed? Hearing none, motion passes." **Motion carries unanimously.**

9.0 Other
 9.0A
 Staff Reports

Davis, "Staff has nothing to add tonight."

9.0B
 Council
 Report –
 Member
 Koller

Koller, "Well, I attended the Board of Appeals and Equalization training course this week, or was it, sometime this week or last week." DeRoche, "Thursday." Koller, "Thursday. And, I attended the Planning and Zoning meeting, which we covered with the rezoning. The Sunrise River Watershed was postponed, last month's meeting was postponed. That will be tomorrow so I'll be attending that. That's about it."

Council
 Member
 Harrington

Harrington, "I attended that Community Development Block Grant last Thursday for the septic over in the Beach. Colleen and Amy, they did a very good job with the information that he gave out. I think there's going to be some challenges over there because some of the lots don't sound like they're going to be to the right size. But, over all, I thought it was a real good informational meeting."

Council
 Member
 Moegerle

Moegerle, "I'll wait until after Mr. Ronning's" DeRoche, "You can go ahead. He might take a while." Moegerle, "Well, because I suspect that there will need to be a response since this is about property that I own. And, it seems to be a political issue and I want an opportunity to respond." DeRoche, "Well, it has nothing to do with politics and we're not going to debate it tonight."

Council

Ronning, "I'm the one that wants to talk. And, I have no problem with anybody responding to something instead of waiting for two weeks or something. There's nothing political

Member
Moegerle

about what I'm saying. Everything will be fact based and no opinions. Politics come in with opinions and I don't believe in that stuff right now." DeRoche, "Ms. Moegerle, your 'shot.'"

Moegerle, "Okay, great. I also attended the Septic System CDBG Grant meeting over at the Community Center. It was very valuable. Interesting to know, this was the first time that I learned and confirmed that holding tanks were permitted out at the Beach in the Shoreland Overlay District. So, that was very, very valuable information to know. I think that's going to be very helpful to our residents out there.

As we all know, this is a Governor election this year and the Governor selects who is on the Met Council. We know what happened four years ago when the Met Council was changed and I think we've been able to work fairly well with those folks that came in on 2011. The 2010 Met Council people kind of accelerated things or staff under their positions. So, I guess my question is, are we prepared if there's no change to continue to work with Met Council? But, also, what is our plan as a Council working with replacements that may come in after the election? I think being prepared for that is going to be very important.

I had an opportunity to use the Metro Transit and that was a very interesting experience. I don't think I've been on public transportation, as a bus, in quite a few years. They had quite a system set up. I was very impressed with that aspect of what Met Council did. Tim answered my question about statistics and reports on the Park 'N Ride.

Please note that there's a Sheriff's Open House September 16th over at the Sheriff's Office for the forensic site and also I've spent a great deal of time reviewing the Shoreland Overlay District ordinances, spoke with a fellow at the DNR, and I've shared that with Jack about how those ordinances are to be applied. They're kind of convoluted but ultimately, what I was told by a representative is that these are basically to be used as 'sandpaper' and not a 'chainsaw.' So, I think that this will really open up some opportunities for redevelopment of the lots over there at Coon Lake Beach. That's all I have."

Council
Member
Ronning

Ronning, "I've spoken about this 2000...I mean 553 Lakeshore, in the past. I brought it up again March 5th or 19th of this year. But, we had a discussion about the actions that have taken place or haven't taken place at 553 and the time limits. The permit application is checked off. After one of the meetings two weeks ago, I think it was, maybe three, that Work Meeting, Heidi and I were here afterwards and Jack was here as well. Nothing official, completely off the record. But, what I got from that discussion was that there's a lot of, correct me if I'm wrong and where, there was a lot of confusion described and difference of opinion about what certain things meant or said. This is the sort of thing that you can't go on forever just because there's difference of opinion on something.

So, saying that, February 19, 2013, a permit by Heidi Moegerle, Gary Otremba, of their address, with a contractor identified, no State contractor license, the check was for demolition. It's not for any partial demolition, it's demolition. And, that isn't happening. It wasn't happening when I asked about it February, oh, it's March 5th or 19th of this year. I asked the status and at that time there'd been no contact regarding...there was a communication between Nick and Ms. Otremba." Moegerle, "My name is Ms. Moegerle."

Council

Ronning, "Ms. Moegerle. I apologize. Between those parties and the City. Nothing saying that, 'We can't do it. We want some extension.' The Building Inspector was out there and addressed a letter to them saying that this will be fine if you send us a communication.

Member
Ronning

That's paraphrasing, it's not exact, but that's the meaning and jest of it. So, that to me, means there hadn't been any communications. I could go and ask to make certain but it won't be today about if any communications had been made regarding an extension. Because when I asked that question on the, March 5th or 19th, I believe it was stated that there weren't any. It was the August 13th meeting we described confusion, difference of opinion. And, I drove past there two, three weeks ago, whatever."

Moegerle, "What date, please?" Ronning, "Two, three weeks." Moegerle, "No, because you've been patrolling and you've been taking photographs." Ronning, "No, get off that. I don't patrol anything. If I drive past..." DeRoche, "It's Council Report, let him finish his report."

Ronning, "...if I drive past anybody's house, that is not patrolling." Moegerle, "Taking photographs?" Ronning, "Yeah, I did. It was a nice house. It was interesting. I liked it."

Ronning, "Anyway, there's not supposed to be construction without a construction permit, I think is correct, Jack?" Moegerle, "For construction, repairs, permit."

Ronning, "This particular thing I noticed was there's about a four-foot overhang on the front of the building with four by six, whatever it might be, 45 degree angle supporting that. Has there been any, well, I'll ask it. Have there been any plans or any permits or anything applied for to approve not taking it down?" Davis, "The Building Official did an inspection out there on the demolition last Friday, noted the four-foot overhang, and noted that Code only permits a two-foot overhang and two feet of the overhang must be removed."

Ronning, "But, was there any communication with, from the owner requesting a permit to do any of this work?" Moegerle, "Yes. Actually, last Tuesday I specifically asked, 'Did we need a permit to reinstall the door and windows.' And, I was told, 'Yes.' I said, 'I'll go apply right now.' And, I was told by staff, 'No.' Don't understand why. That was the conversation."

Davis, "The reason for not telling you to apply for the permit, at that time, was we had to go out and look and see what the issue was. And, the way it was presented it would be new construction rather than part of the demolition permit." Moegerle, "Well, and that was why we were purchasing a permit, so we could proceed with the restoration, repair, maintenance. There's five different words in the Shoreland Overlay District that's allowed."

Davis, "There were some other issues too. To make sure the building was in compliance with the 960 square foot maximum and to also take a look at the overhang issue."

Ronning, "The permit, I go back to the original permit. The original intent and what the intent is, if that's a straight line or if it's got a bunch of 'squiggles' in there. The original intent is checked off 'demolition.'" Moegerle, "Of house portion. We spoke many times with staff."

Ronning, "Well, the house isn't gone." Moegerle, "I said, we spoke many times with staff that because, the purpose of the demolition was to repair a significant structural defect that had been approved by the Building Inspector back in 1985 in which a full foundation, garage, and addition was attached to a cabin from 1940 with a floating, single concrete block foundation. The floor was twisted and warped. There was quite a bit of water damage. We wanted to preserve the property as much as possible. We had our own

Council

Member
Ronning

personal uses for it. But, also, very clear in our minds, maybe not communicated clearly, but we wanted to preserve that property for future generations to have the cabin experience at the lake. It was stated many times to staff. I've, when I stop by, I can't tell you whether that was documented. But I called not so much but as much as stopped by and spoke to the Building Official. And, that's more what I would do. So, I can't control whether the Building Official documented the file. What I know is that we communicated that throughout and I've also provided timeline to staff with regard to the progress that we've made. You incorrectly stated that no demolition had occurred. That the demolition was occurring from the inside out so that when the backhoe arrived at the property on August 18th, they fired up at about 8 o'clock by 8:10 the demolition intended, cabin, was down and they were filling dumpsters. Because we had done all the internal work to get rid of that debris and to correct the structural defect."

Ronning, "May I? If I said 'no demolition was done,' I apologize. That would be an error."
Moegerle, "You said you were going to do facts."

Ronning, "I apologize. There was demolition done, not complete. I don't know about 1985 permit, what authority it might have today. I question that, I think. Also, Jack, what if it's, contacts have we made, has the City made, back and forth to work with the person? Because you said, he said there in the March 5th or 19th that we try to work with people. And, I think we all respect that. That's a good healthy way to do things." Davis, "That's correct and I think we've been more than reasonable and gone the extra mile not only with Heidi but with any resident to try to resolve the situation. As I had informed Heidi approximately a week ago, we are at an impasse on this situation. We've had numerous meetings with her and numerous e-mail exchanges and numerous telephone conversations regarding this. She was issued and Council was copied with the items that we felt that she was out of compliance with Code and what the directions were to correct those and a timeline to get those done in."

Ronning, "I heard you say..." Moegerle, "So, at this point we're not, so, we have until the deadline that you've established. So, until that deadline is passed, I don't see how this is a Council matter."

Ronning, "Well, I'm making it a Council matter. That's not my only concern. There are some other little item at the tail end. You mentioned, I think you called it 'impasse.'" Davis, "Correct." Ronning, "Impasse, and you were saying that and Ms. Moegerle was nodding her head with acknowledgement." Moegerle, "I acknowledged that I received that statement. I don't acknowledge, I don't agree with that. But, I acknowledge that was a document that I received."

Ronning, "All I noticed was the physical. Jack made the comment and you were nodding during pretty much during the entire thing." Moegerle, "Yes, yes, that that's what he said. Yes."

Ronning, "How many contacts have we made? Well, wait a minute, how many citizens of this City have had the privilege of not doing what they're supposed to do because there's an 'impasse' or disagreement?" Davis, "When it becomes an issue that we think we can no longer resolve the matter, then we give directives to that person. That person has within the timelines to comply. If there's no compliance then there is a citation issued."

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Ronning, "What's a citation and process?" Davis, "The citation would cite those portions

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of the Code in which there's noncompliance and it would indicate what they were and that would be a misdemeanor."

Ronning, "Has the City...how many meetings, conversations, what have you, has the City had regarding this particular 553? What's the general context?" Davis, "I would say there's been, I know that we had one meeting with Mrs. Moegerle with Coleen and myself." Moegerle, "Ms. Moegerle, Mrs. Moegerle is my mother, a co-owner of this property."

Davis, "In May, I don't have a documented date for the first date but I met with Heidi and Gary on May the 27th and at the time the discussion was, 'This is what you have to do to be in compliance with the Ordinance.' And, that was essentially the issue with the retaining wall was addressed, the issue of the combination of the lots was addressed, the issue of the fact that the structure that was being demolished could not exceed 960 square feet was addressed. As I recall, I issued them an e-mail on or about June the 11th indicating these same things; that these were the things that we considered to be out of compliance. There were probably some telephone calls, several e-mail exchanges. Again, we met, I believe, on July the 27th and..." Moegerle, "28th." Davis, "...28th and had another meeting in which we went over the same things. Part of it was a discussion of the demolition of the structure. At the time, they wished to try to save some sliding glass doors on the 1985 remnant of the house. That was a portion that wasn't torn down which is still within that 960 square foot maximum that would be allowable as an accessory structure. And, they were told if they could do that, and not exceed a 999 square foot maximum, if they went over a few square feet over 960, and it's a structural issue, we wouldn't quibble with that. We would do that with anybody. There's always a little latitude. The reason we don't go over 999 square feet is then 1,000 square feet is the minimum required for a residence in that zoning district. So, there is no residence left, there is only just a small portion of a house and a garage. We deem it now as an accessory structure with no principal structure on the lot. We had follow up phone calls, e-mails, and then I had a conversation with Heidi somewhere around the 12th or 13th of August, told her there'd been essentially no change in the City position. On the 20th of August we issued the final directive for the non-compliance items."

Ronning, "And, I'm bringing this up not that it's a Council matter but I see it as a deliberate refusal, myself. How many contacts were made? Seems to me there's a bunch of them." Davis, "There were numerous e-mails between myself and Heidi and also myself and the City Attorney."

Ronning, "I'd just like to know that there's, I don't ever want to hear this come up during an election thing about how somebody is being picked on or not picked on. So, I would like people to know out there how many, what kind of effort the City made." Davis, "I think the City made a more than reasonable effort and we tried our best to resolve the situation. And, currently, the resolution hasn't been achieved."

Ronning, "What's the number of contacts?" Moegerle, "And there's still time to achieve that. Actually, as I indicated, I spoke with Dan Petrick at the DNR who disagrees with the City's, spoke to me and said that he disagreed with the City's determination." Ronning, "Does he have authority in this matter?" Moegerle, "Yeah, he does because he talks about how..." Vierling, "He has none." Moegerle, "...the Statutes are applied and indicate how that is, ultimately this is..."

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Ronning, "What authority? He has none." Moegerle, "But, the point is that reasonable people can disagree reasonably about these documents. One of the things that Mr. Petrick

indicated, he said, 'Look, it matters who owns the lots.' We went..."

DeRoche, "We're not going to..." Moegerle, "No, wait. Apparently we are." DeRoche, "No, you know what, we're not going through the whole...no we're not." Ronning, "This whole thing depends on, what you're explanation would be depends on how you described it, circumstance. I..." Moegerle, "No, it depends upon the facts." Ronning, "Where are the facts? Do you have them with you?" Moegerle, "No because I didn't expect to be 'sandbagged.' But, you know, if we want to discuss about it, I'm glad to."

Ronning, "I told you a number of times, 'This isn't going away.' And, you've acknowledged that, I know." Moegerle, "I know that. We've still got until October 21st at midnight to comply."

Ronning, "Is the drain field and septic all been removed?" Moegerle, "This is not a Council matter. This is between, this is..." Ronning, "Okay, I'm taking that to mean, 'No, it is not removed. It's still in the ground.'" Moegerle, "I have no reason that I need to respond to you on that issue. If you want to bring this up on October 22nd, I'll be glad to respond."

Ronning, "Your rhetoric speaks for itself." Moegerle, "Good. Because, apparently..." Ronning, "If it was gone I think you've acknowledged everything else that's been done and to 'change tune' all of a sudden right now." Moegerle, "No."

Ronning, "So at some point, I heard there is a significant number. I thought you'd have the number. As much as I'm aware that's gone on here."

Ronning, "I would make a motion tonight that we direct staff that there's no more contact to be made regarding this unless it's something new and of some relative significance. (Note: Motion died for lack of a second)

Ronning, "This has drug on and drug on. This October 23rd is only because you sent a letter. Otherwise, it would be on-going and on-going." Moegerle, "That, actually, is incorrect because we applied for an extension of time on the demolition permit for the partial demolition permit, which was granted and extended to October 21st of this year. Also, there's been certain demands and Jack and I've had conversations about this. He's well aware that I've applied to our title insurance company with regard to the City's demand that we take down a retaining wall that we don't even have an ownership interest in. You know, I'm..."

Ronning, "That's part of the conditions of the property that you bought and signed for." Moegerle, "We did not purchase property that was owned by the City."

Ronning, "Are you ignorant of the fact that retaining wall was there for the purpose of the septic tank and when the house was sold, it was all gone at the responsibility of the buyer?" Moegerle, "I was not sold anything on the property of the City. That's just impossible."

Ronning, "The documents that you've been given specifically indicate, that would have gone with your transaction, specifically indicate that was a non-compliance when it came out. So, they gave them some extension and correct me if I'm wrong Jack, or Heidi, they did some extension onto City property with a written commitment/agreement that once that house was sold, all that extenuating circumstance from the property is gone and the responsibility transfers." Davis, "There was an easement agreement entered into by the

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City with a Mr. Roger Shore who was the owner of the property back in 1985 that gave him permission to extend part of his drainfield onto City right-of-way. And, as a part of that, to construct a retaining wall, which was really a part of that system to help hold it in. The easements further stated that upon the functional life of that system being no longer there, or if it's noncompliant, or if the system fails, then the easement goes away."

Ronning, "When I hear, whether it's a disagreement of what some law says or it's a reference to logically, then so be it. I don't have the data but I don't believe any other resident in this City has had that kind of accommodations. And, basically, what I'm coming up with are this is refusal to comply with all kinds of excuses why not." Moegerle, "Well, actually..." Ronning, "I'm asking Jack. May I?" Moegerle, "Well, it's hard to tell who you're asking."

Ronning, "Okay, well I'm sorry. Mr. Jack?" Davis, "As far as things go, what my interpretation of it is, unless there's some new outstanding information, my position is unchanged. I know Heidi referenced conversations with the gentlemen with the DNR today. But, anything with the DNR and the Shoreland Overlay District doesn't really apply to this. We're talking about combination of lots. It's mentioned in the Shoreland Overlay District but it's also mentioned under nonconformities too. The issue with the septic tank having to be removed and the retaining wall, whether it falls under the expiration of the easement, there's two other sections in City Code that deal with visibility at intersections and improvements that may block that. Those come into play with the removal of that. Also, one of the things that we did back in April was we amended our ordinance on accessory structures and allowed changes in enlarging those based on lot size. Based on this lot size, they could have 960 square feet. It's our interpretation that once the demolition began on the interior of the house and the plumbing, the wiring, were removed, there was no functional plumbing in there. We were also told that the septic system had been disconnected from the home."

Moegerle, "That was incorrect, by the way." Davis, "Well, that's what we were told." Moegerle, "And, I apologize." Ronning, "That's what the minutes said. I read them too and I'll bring that back."

Davis, "And by that, the use is changed. It is no longer a habitable structure so it loses its principal structure status and it loses its grandfather protection so, therefore, it must meet the requirements of all the other parts of the City Ordinance."

Moegerle, "May I respond please? I'm looking at Minnesota Code 462.357 on Nonconformities in Shoreland Overlay District. It says, '*Except as otherwise provided by law, any nonconformity including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter may be continued including through repair, replacement, restoration, maintenance, or improvement.*' As Mr. Petrick advised me, it says, '*Contiguous nonconforming lots...*' notice 'lots' not 'parcels' '*...of record in Shoreland areas under a common ownership must be able to be sold or purchased individually if each lot: a. contained a habitable residential dwelling at the time the lots came under common ownership...*' of course we dispute 'common ownership'... '*and the lots are suitable for or served by sewage treatment consistent with the requirements of*'...so on and so forth. So, what we had is a legitimate dispute with regard to how those laws are applied. The other thing is, what we have, when we went to the City we said, 'Look, here's what our intended use of this property is. But, we want to preserve it for the purpose of living in this cabin for future generations. How do we do

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that?' To this date, we have had nothing to say, anything, about, 'This is how you do this. Tell us the order.' What we know, when we purchased that property, there was a structural defect. The question was..."

DeRoche, "You know what..." Moegerle, "No, no, let me finish. Let me finish because..." DeRoche, "We're not going to go through all your conversations." Moegerle, "We're not going to have a hearing..." Ronning, "Just give her..." DeRoche, "...that have nothing to do with City ordinance." Moegerle, "This does because the point, the question was, at what point, where can the building be separated to solve the structural defect and if it was at a point where the building could continue as a principal structure, then we would continue to do that. And my husband told me, erroneously, that he had removed the septic system from the structure. He meant that the fixtures. He does that when he gets flustered, whatever. I have pictures to show that the septic system was connected to the structure as of August 18th, actually, at 8:10..."

Ronning, "There were some other errors. You had said that the gas was disconnected and he said, 'No, I kept it going.' Then you came up with a reason why it was still going, which was a bit peculiar. But, Jack..."

Koller, "I'm going home, I've got to get up for work in six hours. And, this is a Council Report. It's not a 'bitch session,' remember that."

Koller left the meeting at 9:04 p.m.

Ronning, "As far as this goes, with any other person in the community, once the City Administrator has issued a decision, is that final? It's their right to appeal or take other course? And, also I would ask if you've had legal counsel regarding this matter." Davis, "Mark has reviewed all the steps in this process, anything that we've done, and provided legal advice as to what some of our interpretations were. As far as 'final,' we will give..."

Speaker off camera, "Are we recording this?" Ronning, "Yes, please."

Davis, "...we will give these to anybody and this is staff's interpretation. If the person disagrees with it, in the case of land use issues, if they feel that the Planning Commission will hear them, they can apply to the Planning Commission for a variance. They could appeal to City Council. If it's not a land use issue they could request mediation or they could take civil action. So, there's a number of recourses that they can follow other than what my opinion is and staff's opinion."

Ronning, "What did the Attorney give you for advice?" Davis, "The Attorney concurred with our interpretations of the noncompliance issues and the Attorney also issued a statement as to the reason for the legal combination of lots."

Ronning, "Did you communicate that to Ms. Moegerle?" Davis, "That was sent from the Attorney to Ms. Moegerle." Ronning, "Okay, so she's not unaware." Moegerle, "Yes, I have not refused anything."

Ronning, "With these communi...well that's too bad. With these communications you are responsible for your actions. With these communications and no action to speak of, I see this as a deliberate refusal to comply with what the ordinances are and what the instructions are. I don't know how to call it any different. That's something that everybody should

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have an opinion. My opinion isn't everything."

Ronning, "This is a UAW Ford quick story. During negotiations especially, but any time during your relationship, the company is advised by their OGC and they make it very clear that we are under penalty of law if we do anything, or for an international rep, then we would do for any employee. And, we understand that and accept it. That's just plain life. Now, if we, I see us as a Council also has a responsibility. We've talked about Code of Ethics and a number of other things in the past, that we have some obligation to police ourselves. If we're doing or asking for something or using our position for something other than what another citizen would get, I believe that's abuse of authority." Moegerle, "Oh, well this..."

Ronning, "No, I believe it's an abuse of authority and what's the requirement to show something like that Mr. Vierling?" Vierling, "I think what you're actually getting to is issues of conflict of interest as well as the ethical issues. Certainly, the ethical issues are a discussion from Council at Council level in terms of what rules you want to impose on yourselves. Certainly if this matter comes before Council, Ms. Moegerle is not going to be in a position to vote on it for any purpose because there is a financial conflict there."

Moegerle, "However, please understand, I've gotten e-mails from staff, I've gotten e-mails from other individuals about this purporting to be regarding 553 Lakeshore to my Council e-mail address. That is an abuse. It is a, the purpose was..." Vierling, "Abuse by whom? For what?" Moegerle, "It was abuse by the City to lay a 'trap' for me to use my personal Council e-mail account for personal purposes."

Vierling, "As long as you're a Councilperson, you're entitled and should get any communication from staff relative to properties, whether it be yours or somebody else's, at your City e-mail. You're confusing the issue of conflict with the right of access to information and the right to documents as a Councilperson. You have the City e-mail set up, as does every Councilmember, for purposes of receiving documents that are available to the public that are going to be shared with other Council people. Those documents are going to be distributed to you in your Council box with your address as they will for any other Councilperson."

Moegerle, "In any respect, Mr. Ronning's statements are incorrect about the facts of the progress that's being made. Progress is being made weekly. We will achieve the goals of the October 21st. We've taken steps to resolve the issues. We don't think that we're at an impasse. One reason is, we certainly have not received an explanation. What we've gotten from staff is, 'Do this, do this, do this.' My husband is a construction contractor, has dealt with many Building Officials at all kinds of levels of construction, reconstruction, rehabilitation. And he has been told, I'm a part owner in the business so that's why I said 'we,' but he has been told, 'Well, this is what you do and this is why.' And part of the reason that we have gotten concerns is we've been told, 'Do this' and we have said..."

Vierling, "Well you've been given directions from Council, or been given direction from staff, as far as what you cannot do but you know as well as your husband knows it's not the role of the City staff to tell you how to design your property." Moegerle, "And, we're not doing that but we're saying, 'What fact are you relying on?' Because, we don't understand it the way you do. It's not a personal issue, it's a, 'We don't understand how you're coming from because this was the house, used as a house, we'd like to continue to use it as a house.' It was connected up to the septic system and I have pictures of that as of August 18th to

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prove that and to prove that my husband misspoke in informing me about the removal of the fixtures. But, in any case, you know, we're trying very hard to retain a wonderful experience on the lake of the cabin. And so I have suggested to Mr. Davis that we go to mediation. One of the things in a report I'll be sending to him probably early in the morning, is with regard to perhaps meeting with Dan Petrick of the DNR because they have quite a system about how the Shoreland Overlay District rules are applied and what the intentions are and those kinds of things. In any cases, I do think that we're making progress. I think the lines of communication are open and respectful. And I don't want anything more than any other resident gets. No more, no less. So, it's been an interesting learning experience and we're still making progress. I know from the 'outside looking in' that may not be much but please note that the property is marked, 'No Trespassing,' and what you see from the road is what you see from the road."

DeRoche, "Great speech. However..."

Ronning, "I asked this question, like I said, back in March, and at that time it was 14 months and it was pretty well stalled. If Mr. Davis has an obligation to mediation on something, I wouldn't think he's aware of it. That's something that people agree to, mediation." DeRoche, "Let Mr. Ronning speak here. You've had your opportunity."

Ronning, "And...you're saying a lot of stuff that sounds good. The fact of the matter is we have ordinances, etc. What ordinances, is that house allowed to be considered a house? Is that property allowed to be considered a property with a home?"

Moegerle, "I make a motion we adjourn so that we have a hearing on this issue."

Moegerle, "This is not a Council Report. This is a hearing. This is a trial. I've been 'sandbagged' on this."

Ronning, "There's a motion to adjourn. Any support?" **DeRoche, "Motion failed for lack of a second."**

Moegerle, "I would be glad to make an organized presentation but this is not a report."

Ronning, "Motion fails, I guess. What right do they have or not have to continue that property as a piece of property with a home?" Vierling, "Well, the City staff has issued directives in July and August that I think are fairly complete. And, I think those speak for themselves relative to the performance, the bulleted points that are to be done. If the property owner has a dispute, and apparently they do, that's fine if they have a dispute but that doesn't mean that things go along and people do what they want. In any event, I think Council, for my purposes here and as I would recommend in any other situation whether it be a Councilperson or not, given the volume of contacts that there have been in this matter, given the City staff position that they are at impasse with the property owner, I would certainly recommend that any future contacts relative to this property between the owners and the City be in writing and leave it at that."

Ronning, "At what point would somebody become an appellant rather than an arguer, debater?" Vierling, "A number of issues that can, you know, if it goes into dispute obviously the City can take action, the property owner can take action. Either one of them have opportunities and options available to themselves. There's a lot of variables."

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Ronning, "I mentioned the UAW Ford relationship, and I believe that we are supposed to show some kind of integrity. I find myself in a position, I don't see any evidence or any rumors that anybody else has had this kind of latitude. As such, there's something wrong with the Councilperson getting, being allowed such freedoms as have gone on. I know October, but I also know there's elections coming and I know, I've already heard some of the, 'Poor me,' 'Woe is me.' That's not why I'm saying this. I'm saying this because everything I've looked at is available in this building, public record. Everything I've referred to. As far as a trial goes, if you want to talk about it in that forum, what is the definition of abuse of office and what remedies are there should it be made/determined?"

Moegerle, "So, we're going to throw off another Councilperson?"

Vierling, "There's not a Statutory definition for that." Ronning, "Okay." Vierling, "I would have to, if you wanted to review that, it's going to take some research." Ronning, "Is there a referable precedent?" Vierling, "I would imagine there probably is. Certainly the bench law mark is related to conflicts of interest."

Ronning, "I've..." Moegerle, "Exhausted yourself?" Ronning, "No." Moegerle, "Oh, okay." Ronning, "No, I've got a lot of energy."

Ronning, "I've watched this thing proceed and move along, not moving. I would ask you to send the Inspector out to determine if that drainfield and septic has been addressed. I think there's something in the permit about that's one of the first things to be done. And, if it hasn't been done, there's some..." Davis, "The septic system was required to be removed. It could be crushed in place and filled with sand, disconnected from the home. As far as the issue of the septic system making that still a principal structure, I don't think that's the question. Number one, the septic system is failed. It's noncompliant. But, more importantly, the house has no workable plumbing system. There's no bathroom, there's no kitchen. All the plumbing was stripped out so in our interpretation, that reduced its use as a principal residential structure and the only thing it could possibly be then, was an accessory structure."

Ronning, "As far as adjoining properties, what's the effect to adjoining properties as far as a definition of those areas? And, I'm asking these questions because this will be looked at a couple different ways but I want people to know this is a reasonable process, reasonable questions, and it has reasonable comparison to our residents."

Moegerle, "Well, and I..." Ronning, "With the properties..." DeRoche, "Ms...." Moegerle, "Let's have a hearing." DeRoche, "No. You know what, you had your Council Report. Just let him finish so we can..." Moegerle, "Why won't you let me respond?" Ronning, "She was going to wait until after me. I think." DeRoche, "Because, you've been responding, you just keep going on these, 'Poor me,' things and..." Moegerle, "Not at all."

DeRoche, "You know, I would recommend, as Jack said, the City is at an impasse, there's been 29 e-mails, at least. There's been at least 17 between the City Administrator and the Attorney. And, for someone to say, 'We haven't been notified of anything,' I don't believe that." Moegerle, "That's not what I said." DeRoche, "Well, you know what..." Moegerle, "Please look at the minutes, wait folks, (*inaudible*)."

DeRoche, "I think if we're at an impasse, what needs to happen is staff be directed that, send you a letter or correspondence that if, go before the Planning Commission and see if

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they'll grant you something. Or, go before the Council or maybe go and do it legally in court. I think you've spent enough of the taxpayer's money in both staff time and legal expenses. And, for someone who is constantly saying that Council people take all of staff's time and that's why they don't get anything done, that this issue alone has taken way too much time. If it were me or anyone else out there and Jack, and if it got to a point, look, this is what staff's interpretation is, we're not changing it, then you know what, you need to move on to the next step, which to me..." Moegerle, "And, we have."

DeRoche, "But, that's not what's happening." Moegerle, "Well, absolute...wait, wait, let me, you've just challenged me. You've said things that are incorrect." DeRoche, "No, you know what, you've had your speak. I'm just trying to get this over here." Moegerle, "You're incorrect. Call me. I'll tell you."

Ronning, "Some of the communications, I want to make sure people are aware. What have you communicated as far as the ordinances with adjoining properties and the connections and disconnects and what have you? What applies to anybody else?" Davis, "We've referenced the aspects of the ordinances that apply in this situation in regard to the combination of lots, in regard to the removal of the septic system, in regard to our interpretation of principal versus accessory structure. All those have been referenced by sections of the ordinance. So, there is indication of direction on this, in our opinion. And, the response has been that there's an opposite interpretation on Heidi's part so from that aspect, that's why I said we're at an impasse. Unless there's any new information, I have no other things to offer in this."

Moegerle, "At the last meeting I suggested that we go to mediation. Absolutely. In fact, I suggested that first before I got communication from the City. We are moving forward. I don't need or want to consume staff's time. But, I do want to understand where they're coming from because I have, I don't understand the facts that they are relying on for their perspective. Okay? So, we move on."

Ronning, "If I heard somebody trying to refer and demand unnecessary process, that's stalling. That's just stalling. This whole thing has been stalling. But, is..." Moegerle, "No, he just told me I can appeal, I can do a variance. You've just told me of those things and those things are in process. You don't know about that. So, please, this is moving apace. The time for discussion has passed. I get it. Let's move on. Let's do the City business instead of some vendetta and..." Ronning, "Vendetta? That's, the vendetta thing is, I'll disregard that."

DeRoche, "All right, you know what, Tom, hold on a second. Look, everything was already decided. We're, basically I would prefer that staff has spent more than enough time both from a legal standpoint and their interpretation. You are demanding..." Moegerle, "I'm not demanding."

DeRoche, "...that the City go to mediation. I don't even think mediation should be a part of this. The ordinances are set down there and everyone else in the City has to follow the ordinances. Now, you should follow the ordinances." Moegerle, "People, so, people cannot reasonable disagree over reasonable facts?" DeRoche, "Reasonably is one thing. In my personal opinion, it's gone beyond that. I think that we just need to get something else going here." Moegerle, "Okay."

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Ronning, "Ms. Moegerle's made several references to, they want to keep the lake effect of

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the cabin. So, that speaks to making a resalable rental or some kind of a property for inhabitation. Is that...have you communicated or is that even within the ordinance abilities?" Davis, "That, in our opinion, it is not and also Heidi and I had this discussion. In the original application for the demolition permit, it said to remove the portion for habitation and keep the garage. We were always under the impression, initially, that this was to be used as an accessory structure. When the demolition was done on the interior, then to me, it made the fact evident that this was no longer a residential or principal structure." Moegerle, "And, that's a factual question."

DeRoche, "The question here, for that to be an accessory structure. Now, you said that was 960 square feet. How many square feet is the boathouse?" Davis, "The boathouse would be a shed. The boathouse is less than 120 square feet. You can have one shed on the property and one accessory structure within that acreage. So, the boathouse could be classified as a shed."

DeRoche, "So, those lots don't have to be combined for that to be in compliance?" Davis, "The lots would have to be combined in order for the garage and the remaining remnant of the house to be an accessory structure."

DeRoche, "Well, then I guess until the lots are combined, how can an accessory structure be allowed?" Davis, "That's part of the issue for compliance. The lots have to be combined and then the accessory structure would be allowed provided it's 960 square feet or less."

Ronning, "If we're, information for anybody concerned or interested, they have, I believe it's nine properties that are joined to their current home area and homesteading. And, this particular property is abutted up right to the border. They are touching so it's not as though it's something to be asking somebody to do across the street or across the lake or something. And, that's what the ordinance is applying to, as far as the abutting."

Moegerle, "The fact is, that the owner of the parcel that abuts the five parcels of the 553 Lakeshore property are in two different ownerships. This has been faxed to Mr. Davis. There's a title insurance attorney's opinion that I own the lot that abuts the five lots of 553 Lakeshore and that my husband and I own the 553 Lakeshore properties as joint tenants. So, there's not same or common ownership. This is just a legitimate dispute that folks get into. Let's move on. The demolition is moving on. We know what our remedies are. I'm not sure why we're spending this much additional time of staff and attorney's."

DeRoche, "I think you've beat that point over and over and over tonight. We understand that. There's no more new information, getting new information."

Ronning, "If, after we've had this much discussion, two separate meetings this year, not consecutive but with respectable time, and if compliance is not met after we've given this attention as a Council, what's the reasonable conclusion if it is not addressed as it's been directed, legally?" Vierling, "We'll let the Council have to draw its own conclusion with regard to matters that come there. But, at some point in time, this permit that's outstanding will be canceled. And, there may be other activities that have to occur with regard to tax reporting or reporting certificates on lots."

Ronning, "I've said this isn't going away, and it's not." Moegerle, "I agree. Next time I'd rather not be 'sandbagged.'" Ronning, "Well, if you feel you've been 'sandbagged,' I apologize. I don't think you've been 'sandbagged.' This is just, as I said this is a

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Member Ronning discussion of factual matters, no opinions on my part or ‘what ifs.’ Strictly factual matters. End of my report.”

Mayor DeRoche DeRoche, “Well I, on a lighter note, went to the Linwood, what was that Jack, the Midwest Anoka County Trails?” Davis, “East Anoka County.” DeRoche, “East Anoka County Trails meeting in Linwood last week. Talked with Karen, how do you pronounce her last name?” Davis, “Blaska.” DeRoche, “Blaska. Initially, their plan was to run an asphalt trail down 22 but in light of the fact there’s a Grant in Aid Trail, snowmobile trail, on 22, they’re looking at doing some changes. They took a lot of input from people. There were representatives of the Kiwi ATV Snowmobile Club, Jacobson was there from the North Metro Riders. They took comment cards, suggestions of what people think. They had maps set up where people may like to see things go. Initially, I’m not sure how they’re going to do it but they’re going to go from Lino or probably Centerville all the way up to Isanti. But, that’s going to kind of determine what happens. I know there’s some trail that they want to put in, in Linwood and some of it’s along 26 where the new power lines are. So, that might be kind of a challenge.

I also went to the Board of Assessment Equalization meeting last week. It was kind of an interesting meeting, especially after having a couple of the hearings and then going to the meeting. So, a lot of this stuff made a lot more sense. There’s some issues that I’m dealing with one of the revenue people on. They had a few questions at that time. He just gave me his card, said, ‘Get a hold of me and we’ll look into it.’

Other than that, not much going on. You know, a lot of rain. Potholes on Lexington so be careful when you drive and especially if you’re on a bike.”

Ronning, “I have one more thing and you can have the last word. I have never been ‘sandbagged’ when I’m in the right. Never. And, I don’t believe you can be.” DeRoche, “Yeah. We’re done.” Moegerle, “You can be taken unawares.” Ronning, “Well, she gets the last word.”

DeRoche, “No, I entertain a motion to adjourn.” Harrington, “I’ll second.”

9.0C Other

None.

10.0 Adjourn Moegerle, “I’ll make a motion we adjourn.” Harrington, “I’ll second.”

Adjourn DeRoche, “Any discussion? All in favor?” All in favor.

DeRoche, “Opposed? Hearing none...for the record, off the record, I don’t know if Ken’s talked to you but he wants to donate a POW/MIA Flag so do we need to get a resolution together?” Davis, “Let’s do that and make it official and we’ll have it on the next agenda.” Ronning, “And, that would be hung on the pole?” DeRoche, “Yeah.” Moegerle, “All right.” Ronning, “You’d be surprised how many places disagree and fight putting an MIA Flag up.”

DeRoche, “Is there any chance, and I’m just throwing it out there, of the City doing like Forest Lake and maybe Linwood, Center City, Chisago, where they have bricks that they...they create a garden and they have bricks with the veteran’s names on them. Have you been up to that one? It’s kind of a nice memorial. Or, that’s something maybe to put

10.0

before the Park Commission?" Davis, "That would be something to bring before them."

Adjourn

DeRoche, "I think we've got to do something for veterans."

Motion carries unanimously. Motion adjourned at 9:32 p.m.

Submitted by:

Carla Wirth

TimeSaver Off Site Secretarial, Inc.