

City of East Bethel

City Council Agenda

Regular Council Meeting – 7:30 p.m.

Date: November 5, 2014



- | | Item | |
|--|-------------|--|
| 7:30 PM | 1.0 | Call to Order |
| 7:31 PM | 2.0 | Pledge of Allegiance |
| 7:32 PM | 3.0 | Adopt Agenda |
| Page 1-2 | | |
| 7:33 PM | 4.0 | Public Hearing |
| Page 3-6 | | A. Delinquent Utility Certification |
| 7:35PM | 5.0 | Public Forum |
| 7:50 PM | 6.0 | Consent Agenda |
| Page 7-8 | | |
| <i>Any item on the consent agenda may be removed for consideration by request of any one Council Member and put on the regular agenda for discussion and consideration</i> | | |
| Page 9-13 | A. | Approve Bills |
| Page 14-35 | B. | Meeting Minutes, October 15, 2014 City Council Meeting |
| Page 36-42 | C. | Meeting Minutes, October 15, 2014 City Council Work Meeting |
| Page 43 | D. | Liability Coverage Waiver Form |
| | E. | Administrative Assistant Hire |
| | F. | Set Date for Canvassing of Election Returns for Mayoral and City Council |
| | | New Business |
| 7:54 PM | 7.0 | Commission, Association and Task Force Reports |
| | | A. Planning Commission |
| | | B. Economic Development Authority |
| Page 44-49 | | 1. EDA Vacancy Appointment |
| | | C. Park Commission |
| | | D. Road Commission |
| 7:55 PM | 8.0 | Department Reports |
| | A. | Community Development |
| Page 50-70 | | 1. Septic Ordinance, Chapter 74, Section II |
| Page 71-91 | | 2. Developers Agreement-Classic Commercial Park |
| Page 92-95 | | 3. Final Plat-Classic Commercial Park 3 rd Addition Addendum |
| Page 96-98 | | 4. Stern Administrative Subdivision |
| | B. | Engineer |
| | C. | City Attorney |
| | D. | Finance |
| | E. | Public Works |
| | F. | Fire Department |
| | G. | City Administrator |
| Page 99-109 | | 1. Animal Ordinance, Chapter 10, Dogs |

- 8:20 PM** **9.0** **Other**
A. Staff Report
B. Council Reports
C. Other

8:30 PM **10.0** **Adjourn**



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

Item 4.0 A

Agenda Item:

Public Hearing – Delinquent Charges

Requested Action:

Conduct a Public Hearing for Delinquent Utilities

Background Information:

East Bethel Code of Ordinances, Chapter 74, Sec. 74-126 (b) provides for the collection of delinquent utility bills through the property tax system. This ordinance provides an opportunity for property owners that are delinquent in payments to the City for utility services to come before the City Council to explain their specific situation. The Public Hearing we are conducting tonight meets the requirements of the Ordinance.

The Public Hearing must be conducted and property owners must be provided an opportunity to be heard before the final certification of delinquent amounts is forwarded to the County for collection with property taxes.

At its September 17th, 2014 meeting, Council set November 5, 2014 as the Public Hearing date for individuals wishing to object to the delinquent charges being collected through the property tax system. All affected property owners have been notified via U.S. Mail of the opportunity to appear before the City Council on Wednesday evening.

The final list must be provided to the County no later than November 30, 2014 (Minnesota Statute 429.061, Subd. 3 requires the City to certify its assessments to the county auditor by November 30).

Fiscal Impact:

Certification of delinquent charges will improve the City's opportunity to collect these charges.

Recommendation(s):

Staff recommends that the public hearing be conducted on Wednesday, November 5, 2014 to provide an opportunity for citizens to be heard on their delinquent amounts. At the conclusion of the Public Hearing, Staff recommends approval of Resolution 2014-41 Final Certification of Delinquent Charges for Collection with 2015 Property Taxes.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

**CITY OF EAST BETHEL
EAST BETHEL, MINNESOTA**

RESOLUTION NO. 2014-41

**FINAL CERTIFICATION OF DELINQUENT CHARGES FOR COLLECTION WITH 2015
PROPERTY TAXES**

WHEREAS, East Bethel Code of Ordinance, Chapter 74, Sec. 74-126 (b) provides for the collection of unpaid utility bills through the property tax system; and

WHEREAS, the attached list shows the delinquent amounts owed assuming a certification cutoff date of September 22, 2014 that reflects payments received through November 5, 2014; and

WHEREAS, certification will greatly improve the City's chances of collecting the relevant charges.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EAST BETHEL, MINNESOTA THAT THE COUNCIL approves the attached, final certification list.

Adopted this 5th day of November, 2014 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Robert H. DeRoche, Jr., Mayor

ATTEST:

Jack Davis, City Administrator

City of East Bethel
 Past Due Amounts, Period Ending September 22, 2014

Utility Billing

Address	PIN	Name	Utility Due	Certification Charge	Interest 18% from 1/1/15 12/31/15	Total Certified
1080 Fillmore Cir NE	29-34-23-23-0179	Hunter	2,846.32	70.00	512.34	3,428.66
1142 243 rd Lane NE	29-34-23-22-0124	Bender	594.78	70.00	107.06	771.84
24235 Fillmore Cir NE	29-34-23-23-0170	Schuneman	1,340.80	70.00	241.34	1,652.14
			<hr/>			
			4,781.90	210.00	860.74	5,852.64



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

Item 6.0 A-F

Agenda Item:

Consent Agenda

Requested Action:

Consider approving Consent Agenda as presented

Background Information:

Item A

Approve Bills

Item B

October 15, 2014 City Council Meeting Minutes

Meeting minutes from the October 15, 2014 City Council Meeting are attached for your review.

Item C

October 15, 2014 City Council Work Meeting Minutes

Meeting minutes from the October 15, 2014 City Council Work Meeting are attached for your review.

Item D

Liability Coverage Waiver Form

The City purchases its insurance from the League of Minnesota Cities Insurance Trust (LMCIT). A requirement of that insurance coverage is that each participating municipality must annually either affirm or waive its statutory limits of liability.

The statutory limits of liability for Minnesota cities are \$500,000 for an individual claimant and \$1,500,000 per occurrence. Cities can waive these limits by allowing an individual claimant to recover more than \$500,000, up to the \$1,500,000 occurrence limit or more if limits are waived and excess liability insurance is purchased. They may also waive the “per occurrence” limit and purchase excess liability insurance. Historically, East Bethel has not waived its liability limits and has chosen to purchase excess coverage, which increases the recovery amount to \$2,500,000. The additional coverage costs roughly \$8,000. Staff and the City Attorney recommend that the City continue this position for 2015.

Item E

Administrative Assistant Hire

The City received 87 applications for Community Development Administrative Assistant. Ten applicants were interviewed and Amy Norling was the candidate that met all of our requirements for the position.

Amy has been our City intern since July of this year and has had the opportunity to prove her abilities in her performance of the duties of the position. She has demonstrated her aptitude and skills in a very professional manner and has shown she has the capabilities to perform the functions of this position. Her work has exceeded our expectations and Staff is confident that Amy is the most qualified candidate and will be an asset to the City.

This position is listed as Pay Grade 5, Step 1 with an annual salary of \$41,492.13 and benefits. Funds have been included in the Preliminary 2015 Budget for this position

Item F

Set Date for Canvassing of Election Returns for Mayoral and City Council Election

The City Council as the Election Canvassing Board, is required to canvass the results of the general election between the 3rd and 10th day following general election per Minn. Stat. §204C.33, subd. 1; §205.185, subd. 3.

Staff recommends that Council schedule a Special Meeting for Wednesday, November 12, 2014 at 6:00 p.m. to Canvass the General Election results.

Fiscal Impact:

As noted above.

Recommendation(s):

Staff recommends approval of the Consent Agenda as presented.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



Payments for Council Approval November 5, 2014

Bills to be Approved for Payment	\$324,486.88
Electronic Payroll Payments	\$26,422.18
Payroll - City Council, October 15, 2014	\$2,145.32
Payroll - Fire Department, October 15, 2014	\$7,183.50
Payroll - City Staff - October 23, 2014	\$33,849.11
Total to be Approved for Payment	\$394,086.99

City of East Bethel

November 5, 2014

Payment Summary

Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
	SAC Remittance	Oct 2014	Metropolitan Council	311		\$2,692.80
Anoka County CDBG	Professional Services Fees	8445	Steinbrecher Companies Inc.	233	23300	\$650.00
Anoka County CDBG	Professional Services Fees	8446	Steinbrecher Companies Inc.	233	23300	\$550.00
Anoka County CDBG	Professional Services Fees	8448	Steinbrecher Companies Inc.	233	23300	\$780.00
Anoka County CDBG	Professional Services Fees	8449	Steinbrecher Companies Inc.	233	23300	\$780.00
Arena Operations	Bldg/Facility Repair Supplies	155779	Class C Components	615	49851	\$204.71
Arena Operations	Bldg/Facility Repair Supplies	1-46906	Steve's Tire Inc.	615	49851	\$60.00
Arena Operations	Electric Utilities	102114	Connexus Energy	615	49851	\$3,558.37
Arena Operations	Gas Utilities	431798787	Xcel Energy	615	49851	\$111.53
Arena Operations	Professional Services Fees	10003	Gibson's Management Company	615	49851	\$9,000.00
Arena Operations	Repairs/Maint Machinery/Equip	383054	Jorson & Carlson Co., Inc	615	49851	\$125.37
Arena Operations	Repairs/Maint Machinery/Equip	383556	Jorson & Carlson Co., Inc	615	49851	\$35.28
Arena Operations	Telephone	332373310-155	Sprint Nextel Communications	615	49851	(\$60.43)
Building Inspection	Conferences/Meetings	33634	Hakanson Anderson Assoc. Inc.	101	42410	\$85.00
Building Inspection	Printing and Duplicating	25611	Do All Printing.Com	101	42410	\$225.00
Building Inspection	Surcharge Remittance	21015003051	MN Dept Labor & Industry	101		\$1,731.24
Building Inspection	Telephone	332373310-155	Sprint Nextel Communications	101	42410	\$3.01
Central Services/Supplies	Cleaning Supplies	IN0632757	Innovative Office Solutions	101	48150	\$10.91
Central Services/Supplies	Information Systems	B141007J	Anoka County Treasury Dept	101	48150	\$225.00
Central Services/Supplies	Office Supplies	IN0632757	Innovative Office Solutions	101	48150	\$31.75
Central Services/Supplies	Office Supplies	INV0635796	Innovative Office Solutions	101	48150	\$24.93
Central Services/Supplies	Office Supplies	INV643080	Innovative Office Solutions	101	48150	\$83.32
Central Services/Supplies	Postage/Delivery	6808-01	Do-Good.Biz	101	48150	\$1,068.35
Central Services/Supplies	Printing and Duplicating	10206	Catalyst Graphics, Inc.	101	48150	\$683.60
Central Services/Supplies	Telephone	12436370	Integra Telecom	101	48150	\$212.94
City Administration	Telephone	332373310-155	Sprint Nextel Communications	101	41320	\$17.52
City Administration	Travel Expenses	103014	Jack Davis	101	41320	\$224.56
City Clerk	Professional Services Fees	199554	STS Staffing	101	41430	\$496.13
City Clerk	Professional Services Fees	M20850	TimeSaver Off Site Secretarial	101	41430	\$355.00
Economic Development Authority	Professional Services Fees	101	Susan Irons	232	23200	\$48.00
Elections	Legal Notices	152926	ECM Publishers, Inc.	101	41410	\$28.13
Elections	Legal Notices	155181	ECM Publishers, Inc.	101	41410	\$213.75
Engineering	Architect/Engineering Fees	33634	Hakanson Anderson Assoc. Inc.	101	43110	\$180.00
Engineering	Architect/Engineering Fees	33634	Hakanson Anderson Assoc. Inc.	101	43110	\$480.60
Engineering	Architect/Engineering Fees	33634	Hakanson Anderson Assoc. Inc.	101	43110	\$2,320.00
Finance	Conferences/Meetings	101414	MN State Auditor	101	41520	\$125.00
Fire Department	Bldgs/Facilities Repair/Maint	170999	Northern Sanitary Supply Co	101	42210	\$38.60
Fire Department	Conferences/Meetings	275655	Foremost Promotions	101	42210	\$713.01
Fire Department	Electric Utilities	102114	Connexus Energy	101	42210	\$646.73
Fire Department	Equipment Parts	1539-324937	O'Reilly Auto Stores Inc.	101	42210	\$103.76
Fire Department	Equipment Parts	1539-325185	O'Reilly Auto Stores Inc.	101	42210	\$185.24
Fire Department	Gas Utilities	431798787	Xcel Energy	101	42210	\$245.24
Fire Department	General Operating Supplies	157907	Clarey's Safety Equipment Inc.	101	42210	\$656.00
Fire Department	General Operating Supplies	73197	Fire Safety USA, Inc.	101	42210	\$90.00
Fire Department	General Operating Supplies	67534	Menards Cambridge	101	42210	\$134.43

City of East Bethel

November 5, 2014

Payment Summary

Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
Fire Department	Lubricants and Additives	1921-217306	O'Reilly Auto Stores Inc.	101	42210	\$33.47
Fire Department	Motor Vehicle Services (Lic d)	20351	Central Truck Service, Inc	101	42210	\$80.00
Fire Department	Personnel/Labor Relations	2548131409	First Advantage LNS Screening	101	42210	\$309.75
Fire Department	Printing and Duplicating	1191A	Print Plus, Inc.	101	42210	\$165.00
Fire Department	Small Tools and Minor Equip	116929	BlueTarp Financial, Inc.	101	42210	\$137.00
Fire Department	Small Tools and Minor Equip	12020	Emergency Automotive	701	42210	\$3,842.87
Fire Department	Small Tools and Minor Equip	21389-W	Pro Poly of America, Inc.	701	42210	\$3,004.28
Fire Department	Telephone	12436370	Integra Telecom	101	42210	\$133.11
Fire Department	Telephone	332373310-155	Sprint Nextel Communications	101	42210	\$25.14
General Govt Buildings/Plant	Bldg/Facility Repair Supplies	72696	Menards - Forest Lake	101	41940	\$26.97
General Govt Buildings/Plant	Bldg/Facility Repair Supplies	65908	Menards Cambridge	101	41940	\$74.94
General Govt Buildings/Plant	Bldg/Facility Repair Supplies	66751	Menards Cambridge	101	41940	\$310.21
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	313827483	Premium Waters, Inc.	101	41940	\$14.30
General Govt Buildings/Plant	Electric Utilities	102114	Connexus Energy	101	41940	\$1,019.04
General Govt Buildings/Plant	Gas Utilities	431798787	Xcel Energy	101	41940	\$290.42
MSA Street Construction	Architect/Engineering Fees	33628	Hakanson Anderson Assoc. Inc.	402	40200	\$187.92
MSA Street Construction	Architect/Engineering Fees	33629	Hakanson Anderson Assoc. Inc.	402	40200	\$6,369.37
Park Maintenance	Bldgs/Facilities Repair/Maint	14760	Blaine Lock & Safe, Inc.	101	43201	\$211.50
Park Maintenance	Chemicals and Chem Products	65843	Menards Cambridge	101	43201	\$32.04
Park Maintenance	Clothing & Personal Equipment	1132543135	G&K Services - St. Paul	101	43201	\$19.00
Park Maintenance	Clothing & Personal Equipment	1132554469	G&K Services - St. Paul	101	43201	\$19.00
Park Maintenance	Clothing & Personal Equipment	1132565259	G&K Services - St. Paul	101	43201	\$19.00
Park Maintenance	Electric Utilities	102114	Connexus Energy	101	43201	\$370.20
Park Maintenance	Equipment Parts	P35974	MN Equipment Solutions	101	43201	\$586.37
Park Maintenance	Equipment Parts	9012	Plow World, Inc.	101	43201	\$43.30
Park Maintenance	Other Equipment Rentals	83119	Jimmy's Johnnys, Inc.	101	43201	\$1,067.71
Park Maintenance	Safety Supplies	494140	Ham Lake Hardware	101	43201	\$28.18
Park Maintenance	Telephone	12436370	Integra Telecom	101	43201	\$48.79
Park Maintenance	Telephone	332373310-155	Sprint Nextel Communications	101	43201	\$66.00
Payroll	Insurance Premiums	11 2014	Dearborn National Life Ins Co.	101		\$1,071.54
Payroll	Insurance Premiums	5723054	Delta Dental	101		\$802.00
Payroll	Insurance Premiums	11 2014	NCPERS Minnesota	101		\$112.00
Payroll	Insurance Premiums	142890002118	PreferredOne	101		\$8,017.07
Payroll	Union Dues	10 2014	MN Public Employees Assn	101		\$429.00
Planning and Zoning	Architect/Engineering Fees	33627	Hakanson Anderson Assoc. Inc.	101		\$991.36
Planning and Zoning	Legal Notices	152927	ECM Publishers, Inc.	101	41910	\$90.00
Planning and Zoning	Personnel Advertising	149491	ECM Publishers, Inc.	101	41910	\$42.80
Planning and Zoning	Personnel Advertising	151487	ECM Publishers, Inc.	101	41910	\$42.80
Planning and Zoning	Professional Services Fees	904	Flat Rock Geographics, LLC	101	41910	\$1,137.50
Planning and Zoning	Professional Services Fees	101	Susan Irons	101	41910	\$24.00
Police	Professional Services Fees	S14013D	Anoka County Treasury Dept	101	42110	\$210,178.00
Recycling Operations	Bldgs/Facilities Repair/Maint	41711	Pinnacle Engineering, Inc	226	43235	\$1,002.50
Recycling Operations	Electric Utilities	102114	Connexus Energy	226	43235	\$117.56
Recycling Operations	Gas Utilities	431798787	Xcel Energy	226	43235	\$25.00
Recycling Operations	Other Equipment Rentals	83119	Jimmy's Johnnys, Inc.	226	43235	\$70.00

City of East Bethel

November 5, 2014

Payment Summary

Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
Recycling Operations	Postage/Delivery	6808-01	Do-Good.Biz	226	43235	\$71.22
Recycling Operations	Printing and Duplicating	10206	Catalyst Graphics, Inc.	226	43235	\$45.57
Sewer Operations	Electric Utilities	102114	Connexus Energy	602	49451	\$987.52
Street Capital Projects	Architect/Engineering Fees	33630	Hakanson Anderson Assoc. Inc.	406	40600	\$1,163.06
Street Capital Projects	Street Maint Services	11029	City of Coon Rapids	406	40600	\$2,409.29
Street Maintenance	Bldgs/Facilities Repair/Maint	21549	Casper's Excavating, Inc.	101	43220	\$275.00
Street Maintenance	Bldgs/Facilities Repair/Maint	1132543135	G&K Services - St. Paul	101	43220	\$5.33
Street Maintenance	Bldgs/Facilities Repair/Maint	1132554469	G&K Services - St. Paul	101	43220	\$9.17
Street Maintenance	Bldgs/Facilities Repair/Maint	1132565259	G&K Services - St. Paul	101	43220	\$5.33
Street Maintenance	Bldgs/Facilities Repair/Maint	105892	MN Petroleum Service	101	43220	\$797.25
Street Maintenance	Bldgs/Facilities Repair/Maint	313827483	Premium Waters, Inc.	101	43220	\$14.30
Street Maintenance	Cleaning Supplies	2803925	Dalco	101	43220	\$131.28
Street Maintenance	Clothing & Personal Equipment	29906	Chet's Shoes, Inc.	101	43220	\$151.99
Street Maintenance	Clothing & Personal Equipment	1132543135	G&K Services - St. Paul	101	43220	\$19.40
Street Maintenance	Clothing & Personal Equipment	1132554469	G&K Services - St. Paul	101	43220	\$19.40
Street Maintenance	Clothing & Personal Equipment	1132565259	G&K Services - St. Paul	101	43220	\$19.40
Street Maintenance	Clothing & Personal Equipment	102114	John Schaser	101	43220	\$150.00
Street Maintenance	Conferences/Meetings	102714	MN Fall Expo	101	43220	\$175.00
Street Maintenance	Electric Utilities	102114	Connexus Energy	101	43220	\$1,419.85
Street Maintenance	Equipment Parts	1539-325199	O'Reilly Auto Stores Inc.	101	43220	\$12.98
Street Maintenance	Equipment Parts	271038	S & S Industrial Supply	101	43220	\$33.13
Street Maintenance	Equipment Parts	SW200041359	Ziegler Inc.	101	43220	\$196.93
Street Maintenance	Gas Utilities	431798787	Xcel Energy	101	43220	\$20.54
Street Maintenance	General Operating Supplies	66751	Menards Cambridge	101	43220	\$117.23
Street Maintenance	Lubricants and Additives	536228	Lubricant Technologies, Inc.	101	43220	\$977.76
Street Maintenance	Lubricants and Additives	1539-329945	O'Reilly Auto Stores Inc.	101	43220	\$31.98
Street Maintenance	Lubricants and Additives	271680	S & S Industrial Supply	101	43220	\$39.11
Street Maintenance	Motor Vehicle Services (Lic d)	20355	Central Truck Service, Inc	101	43220	\$80.00
Street Maintenance	Motor Vehicles Parts	F-242880089	Allstate Peterbilt North	101	43220	\$54.84
Street Maintenance	Motor Vehicles Parts	23896	Hayford Ford	101	43220	\$85.25
Street Maintenance	Motor Vehicles Parts	23907	Hayford Ford	101	43220	\$27.32
Street Maintenance	Motor Vehicles Parts	C241171521:01	I State Truck Inc.	101	43220	\$102.93
Street Maintenance	Motor Vehicles Parts	1539-325378	O'Reilly Auto Stores Inc.	101	43220	\$12.55
Street Maintenance	Motor Vehicles Parts	1539-326009	O'Reilly Auto Stores Inc.	101	43220	\$48.90
Street Maintenance	Professional Services Fees	101	Susan Irons	101	43220	\$68.00
Street Maintenance	Refuse Removal	885878	Walters Recycling, Inc.	101	43220	\$405.61
Street Maintenance	Small Tools and Minor Equip	116929	BlueTarp Financial, Inc.	101	43220	\$8.99
Street Maintenance	Small Tools and Minor Equip	332373310-155	Sprint Nextel Communications	101	43220	(\$49.99)
Street Maintenance	Street Maint Materials	70643	Menards - Forest Lake	101	43220	\$48.99
Street Maintenance	Street Maint Materials	72686	Menards - Forest Lake	101	43220	\$45.83
Street Maintenance	Street Maint Services	19235	Bjorklund Companies, LLC	101	43220	\$33,983.40
Street Maintenance	Telephone	12436370	Integra Telecom	101	43220	\$48.79
Street Maintenance	Telephone	332373310-155	Sprint Nextel Communications	101	43220	\$163.66
Water Utility Capital Projects	Architect/Engineering Fees	33631	Hakanson Anderson Assoc. Inc.	433	49405	\$720.00
Water Utility Capital Projects	Architect/Engineering Fees	33632	Hakanson Anderson Assoc. Inc.	433	49405	\$1,784.32

City of East Bethel

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Payment Summary

Dept Descr	Object Descr	Invoice	Check Name	Fund	Dept	Amount
Water Utility Capital Projects	Architect/Engineering Fees	33633	Hakanson Anderson Assoc. Inc.	433	49405	\$2,639.55
Water Utility Operations	Bldgs/Facilities Repair/Maint	25954	Protection Systems, Inc.	601	49401	\$947.85
Water Utility Operations	Electric Utilities	102114	Connexus Energy	601	49401	\$1,098.68
						\$324,486.88
Electronic Payroll Payments						
Payroll	PERA					\$5,482.71
Payroll	Federal Withholding					\$5,143.43
Payroll	Medicare Withholding					\$1,726.72
Payroll	FICA Tax Withholding					\$7,383.02
Payroll	State Withholding					\$2,166.94
Payroll	MSRS/HCSP					\$4,519.36
						\$26,422.18

EAST BETHEL CITY COUNCIL MEETING

OCTOBER 15, 2014

The East Bethel City Council met on October 15, 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
 Mark DuCharme, Fire Chief

1.0 The October 15, 2014, City Council meeting was called to order by Mayor DeRoche at 7:30
Call to Order p.m.

2.0 The Pledge of Allegiance was recited.

**Pledge of
Allegiance**

3.0 **Harrington, "I'd like to make a motion to adopt tonight's agenda with a couple
Adopt** **additions: Letter D, Supplement Bill List, 6.0, and then I'd like to add City Attorney's
Agenda** **Report add to 8.0c.1." Moegerle, "I second." DeRoche, "Any other? All in favor?" All
 in favor. DeRoche, "Opposed? Hearing none, motion passes." Motion carries
 unanimously.**

4.0 Commander Shelly Orlando presented the September 2014, Sheriff's Report:

Presentation

4.0A **DWI's:** There were six DUI arrests. Four of the stops were the result of traffic or
Sheriff's equipment violations witnessed by deputies. One arrest was the result of being called in by
Report another motorist. The final arrest was the result of the driver not being able to navigate a
 turn in the roadway, where she went through the ditch and crashed into a parked car. The
 highest bac was a .19.

Thefts: Eighteen theft reports were made in September. Two involved financial transaction card fraud. The victims were in possession of their credit/debit cards but fraudulent charges had been made on the accounts. One report involved a male who was a victim of a check scam. And, we hear this happening all the time so talk to your friends, talk to your neighbors. Let them know. The victim had been emailing with a person, who wanted him to cash a check, send funds to another person in Texas and then keep the rest as a 'fee.' The victim deposited the check into his account and sent funds. A week later, the victim learned that the check was fraudulent and is now out the \$1,495.00.

So, just, a lot of time this will happen if people are selling things on Craig's List where they'll get an e-mail or some sort of a message saying, 'I want to buy that and I know you only want \$500 but I'm going to send you \$2,500 but you need to send, you know, \$1,000 here and then you can keep the rest of it.' Unfortunately, there's many people who fall for this.

There was one report of an employee theft where an employee had written up a sale for a vehicle but had not turned in the money for it. There was one no pay gas theft with no suspect vehicle information. Two reports were license plates stolen. The owners learned of

the theft after their license plates were used in gas drive-offs. With the falling gas prices, we expect to see a drop in those license plate thefts.

There were three reports of copper wire being taken from work vans that were parked in driveways, overnight. These thefts occurred over a three-week time frame. In the first report, the male victim arrived home at approximately 1:00 a.m. to find a male and female near his work van. The suspects got into a small silver car and fled. The victim was unable to obtain a license plate or make on the vehicle. There was one report of a window being broken on a vehicle in a boat landing parking lot. Stolen from inside the vehicle was a debit card. One theft report involved tools being taken from a residence. A family member is suspected, although he denies taking them.

Burglaries: There was one burglary report. The report involved rings being taken from a residence. This occurred within a few days of allowing an acquaintance's mother to stay at the property. There were no signs of forced entry. The acquaintance is a possible suspect who denies any knowledge of the rings. The case is currently under investigation.

Damage to Property: There were five reports of damage to property made. The first report involved a house being egged twice within the last month. Suspects were juvenile males who the homeowner had found with alcohol earlier in the summer. There was one report of tires being slashed on two vehicles parked in the driveway. The victim could not think of any suspects and had no idea why this had happened. One male reported someone had thrown a rock at his parked vehicle, which struck the windshield causing it to break. The last report involved a male reporting damage to his vehicle, involving the tires. His wife was the suspect. The wife admitted to the damage, as she was mad at her husband.

5th Degree Controlled Substance: There was one arrest for 5th degree possession of a controlled substance. A Deputy was watching a known drug house for activity and saw a motorcycle and truck arrive at the residence, stay for a short time, then leave. The deputy conducted a traffic stop on the truck after watching it cross the centerline several times. The female driver had a license status that was canceled inimical to public safety. She also had an open container of alcohol in the truck. Also found in the truck was a container with a small amount of marijuana, two pipes, and a zip-lock bag with mushrooms. The female was taken into custody.

Arrest Breakdowns: We had one felony for 5th degree controlled substance, one gross misdemeanor arrest for a violation of a harassment restraining order, and six misdemeanor arrests: one for a possession of a small amount of marijuana, one for possession of drug paraphernalia, three for a 5th degree assault that were all from the same incident, and one disorderly conduct.

Orlando, "And, that's all that I have." Moegerle, "Thanks." DeRoche, "Well, thank you." Orlando, "No questions?" DeRoche, "No questions."

5.0 Public Forum

Christine Howell, 22314 Seventh Street NE, "I'm going to follow my sheet because I've got a lot of things going through my head and I'm crunched for time. For those who don't know me, I'm a 'put up or shut up' kind of person, meaning I like to have or see documentation to support important issues. I really get frustrated when people or candidates in this case because it's an election year, get asked tough questions and their response is, 'Hmm, I just don't know.' Or, 'In my defense I believed what I was telling you.' My first thought is, 'Are you kidding me?' It's not a good answer for someone

who's supposed to have our best interest at heart. Got to better than that.

That brings me to my question. At this point, the written minutes on line go back to January of 2010. I know they change because they rotate out as new ones get put in the old ones get kicked out. Are the residents able to go to the City Hall and view the written minutes?" DeRoche, "Yes."

Howell, "Okay, how far back do they go?" DeRoche, "I think they're archived, aren't they Jack?" Davis, "We go back to when the City was incorporated, the early 1970s and I think even beyond that when it was still a Village status. They're not available on line. They are available in the record books, some of the old ones are."

Howell, "Okay, so residents can come up and look at them and do some digging. All right, how about the DVDs of the minutes, the meetings? I know that play back and stuff, you can play back the most current one, but are those kept?" Davis, "Those are kept too."

Howell, "And, how far back do they go?" Davis, "I'd have to look and see. I think probably they go back to whenever the recording equipment was put in, which is probably seven, eight, or nine years ago."

Howell, "Okay, so ten, that would be good enough. And, the residents can view those too? They can just come in and ask who...the front desk people?" Davis, "We sell them for \$10 but if somebody doesn't want to we can set up a place where you can view it back here where the video recording stuff is on a small TV if you want to." Howell, "Oh, that would be nice considering it's an election year and my whole spiel is going to be, 'People, people, people, do your homework.' But, that's way down the line."

Howell, "Next question, are all the planning, I mean all the meetings that you have...how about this, which ones are on DVD? I mean, an example, you just had your Work Meeting. Are those? Planning and Zoning?" Davis, "They're all on DVD."

Howell, "Okay, and the public can watch those any time they want to? Basically open? Everything's open? All right, good. People, are you listening? Election season is upon us once again. When someone asks me what I think, I tell them because they asked. I also tell them when I'm done, that's just my opinion and they need to do some research and dig a little deeper so they make an informed decision on their own. Residents can't just go by the Meet the Candidates meetings or the Meet the Candidates playback. That night is just a 'snapshot' of the candidates and there's a lot of pressure on everyone that night to say the right thing. And, it's unfair. Residents need to supplement that and look back. Dig in the minutes, on-line or stop at City hall and look at the DVDs."

This election, interesting I just figured this out the other day, provides us with a unique opportunity to utilize all those DVDs. Every candidate, an somebody can correct me if I'm wrong because I've had a pretty long week, every candidate this year has had, that's running, has some form of connection to the City. Maybe they've been on Committees, they're currently on Committees, you can look back. For example, you can get more than a year's look at you two, Bob and Heidi. You can go back on any of the meetings and look, which pretty much determines your views and your outlooks. Don't just go by a 'snapshot.' Just look. Tim, that's not going to help you a lot because you don't have so much history. But, the stuff you do, you can tell. Your contributions are enough. If you watch on-line that you can get a good value of what your values and belief is. Oddly enough, that's why I

5.0

Public Forum

thought this was interesting, if you want to see Brian Mundle and Randy Plaisance you can look at the last Planning and Zoning. You don't even have to leave the house. Just turn on your TV and hope the sound is working. You can watch the last Planning and Zoning. You can get a good grip on them.

As for Steve Voss, he probably has the biggest advantage because he spent a couple years on the current Council and was lucky enough to be on the City sewer and water project from the ground floor so residents will be able to view when he was on this Council and when he was on the prior Council. They can do those DVDs, view the minutes, and get a better understanding of his views. He may even be able to tell you, or enlighten you, how he got such, so deep in hock and maybe even who was making those promises, 'If you don't hook up, you don't pay.'

I'm encouraging East Bethel voters to be a little more cautious with their trust this time around. Look at the past. Do some research on your candidates. Don't just take what anyone tells you as fact. As I said, many of us were told by the prior Council and its members, 'If you don't hook up, you won't pay,' multiple times, over and over. Usually I was following Tom Ronning. And I, or we, now, the taxpayers, will be paying on this thing that we weren't supposed to have to pay on, for the next 29 years.

Am I upset? You bet. That's why I'm here. Get out. Do your homework and make your vote count.

I have one question on that. With the City sewer and water, do we know, have we heard the percentage as far as increase? What it's going to increase? Unless these businesses magically show up." DeRoche, "Well, I think it's between one and one-half and two percent a year for 29 years. Am I pretty close on that Jack?"

Ronning, "The cost increase, do you mean the REUs?" Howell, "I mean what it's going to cost the taxpayers if these businesses don't show up because now we're going to have to pay for this." Davis, "In the worst case scenario if there are no connections to the system, the cost for retiring the bond debt will increase one and one-half to two percent each year until 2040."

Howell, "Oh. Okay people. Well, thanks for listening. Do your homework." DeRoche, "Thank you Christine." Harrington, "Thanks." Ronning, "Thank you for doing your homework." DeRoche, "She usually does. Thanks Christine."

**6.0
Consent
Agenda**

Item A Bills/Claims

Item B Meeting Minutes, October 1, 2014, City Council Meeting
Meeting minutes from the October 1, 2014, City Council Meeting are attached for your review and approval.

Item C Resolution 2014-40, Authorization for TBRA Grant Submission
Resolution 2014-40 is required as an attachment for the City's submission of a grant application to the MET Council for Tax Based Revitalization Account Funding (TBRA). These funds, if approved, would be used for the de-commission of the Castle Towers Waste Water Treatment Plant and sewage lagoon.

6.0 Item D Supplemental Bill List

Consent
Agenda

DeRoche, “Well, if no one’s going to say anything, I move to accept the Consent Agenda.” Koller, “I’ll second. DeRoche, “Any discussion? All in favor?” **4 in favor.** DeRoche, “Opposed? **Moegerle, “Aye.”** DeRoche, “Motion passes. Can we have a roll call on that for the record?” Ronning, “Sure.” Vierling, “Mayor, of course you can request the Administrator conduct a roll call.” DeRoche, “Would you do that Jack?” Davis,”Excuse me Bob.” Vierling, “On the last one, a roll call has been requested.”

Davis, “I will request a roll call.” **Roll call: Koller, Harrington, Ronning, DeRoche-Aye; Moegerle-Nay, motion carries 4-1.**

7.0 Commission, Association and Task Force Reports
New Business

7.0A None.
Planning
Commission

7.0B None.
Economic
Development
Authority

7.0C None.
Park
Commission

7.0D None.
Road
Commission

8.0 Davis presented the staff report, indicating the Council is requested to consider amending the City Code, Chapter 74, Section II. City staff is recommending the Septic Ordinance, Chapter 74, Section II, of the East Bethel City Code. The proposed changes are necessary to reflect the recent changes in the State Code, 145A.05 and 115.55 and in the MPCA Administrative Rules Chapters 7080 through 7083.
Department Reports
8.0A Community Development

8.0A.1 Adoption of the proposals would update our current Ordinance with the recent revisions to the State Statutes and MPCA Administrative Rules and clarify areas of ambiguity present in our Code. Adoption of the new state regulations would provide less restrictive standards in the following areas:

- The State allows each City to permit a 15% reduction in vertical separation between the bottom of the drainfield to the restricting layer or redoximorphic features on existing septic system.
- Setback from detached accessory buildings with no basements, on the same property may be reduced by 50% if approved by the Building Official
- Modification of tank size requirements to a smaller size is now permitted based on the number of bedrooms.

Changes for Statute and Administrative Rule compliance and others recommended by staff are included in Attachment 2 and are indicated by an underline.

8.0A.1

Septic
Ordinance

Staff recommends consideration of discussion to amend Chapter 74, Section II to comply with the changes as noted in Attachment 2 in your packet.

DeRoche, “I move to amend Septic Ordinance Chapter 74, Section II, of the East Bethel City Code. The proposed changes are necessary to reflect the recent changes in the State Code, 145A.05 and 115.55 and in the MPCA Administrative Rules Chapters 7080 through 7083.” Koller, “I’ll second.” DeRoche, “Any discussion?”

Moegerle, “Yes, I have several. We got a forward of an updated ordinance, Chapter 74, which I show on my computer blue lined. One, I noticed that Individual Sewage Treatment System (ISTS) has been changed to Subsurface Sewage Treatment Systems and that is not the consistent throughout. ISTS, or Individual Sewage Treatment Systems, is still written out in full within this. And, of course, right now I can’t put my point on it. Under Section 74.30, Soil Treatment Area, I notice that basically there are two requirements that are, seem to be somewhat similar. I didn’t know if there was really a distinction, difference between lots plotted after April 1, 1996 and lots created after January 1, 1998, because they both require space for two soil treatment areas.”

DeRoche, “Which one were you looking at? 74 what?” Moegerle, “74.30, Soil Treatment Area. I just have a question as to why we had two standards that seem to be so much similar. I just had a conversation with Jack whether drainfield was one word or two words, which is obviously minor. Then, the final question is, on 74.41, indicates that violation of this ordinance is guilty of misdemeanor punishable as provided in Section 1-114. We, all violations of City Code are misdemeanors and so we’re repeating this again. I just wondered if we wanted to keep repeating that. Since that seems to be consistent throughout our Codes, maybe we should get rid of 1-114 since we seem to repeat it in every Code section where there could be a violation. So, those were the four questions that came to my mind when I read this. Oh, and individual sewage treatment system is still used in 74-47. Another question is 74-50. Escrow is 125% of the cost of a new septic system if it’s started between December 1st and May 1st. I thought that was pretty steep. Oh, Section 74-57 sets out the misdemeanor information, which is set out in 1-114. That is really all my comments and concerns. Thank you.”

DeRoche, “Which one was that? 74-57?” Moegerle, “Yes, misdemeanor. And, that is covered in City Code 1-114.” DeRoche, “My 74-57 is ‘prohibit surface discharge.’” Moegerle, “This is the e-mail that we got later. It’s in blue and it says Article II, Sewage Treatment, with the blue in added text. It looks like that. But this was an e-mail that we got Monday.” DeRoche, “Oh, there it is.” Moegerle, “It was easier for me to read it there as opposed to what was in the packet.”

Ronning, “What did you say, 74-57 for you?” Moegerle, “Yes.” Ronning, “Prohibit surface discharge?” Moegerle, “No, it’s 74-59. It’s on Page 49 in that document. So, you know, we’ve gotten...” DeRoche, “74-59 is misdemeanor.” Moegerle, “Yeah.” DeRoche, “57 was the other one.” Moegerle, “I understood what was in the e-mail was an update on this so that’s, when I prepared for this I looked at the e-mail. So, cross referencing the changes is difficult, I understand.”

Ronning, “Well Jack, is there a difference and which should we consider?” Davis, “The latest edition is the one that’s up for consideration.” Moegerle, “The one that was in the packet? Or, the...” Davis, “The blue one.” Moegerle, “Yeah, this one that was the

8.0A.1
Septic
Ordinance

attachment to the e-mail.” Ronning, “I can’t get into mine so it won’t do me any good.”

DeRoche, “So, other than the repetitive, which I think we do in a lot of our ordinances anyway.” Moegerle, “We’re still using the ISTS designation which has been replaced by SSTS, Subsurface...”

Vierling, “Aren’t they interchangeable?” Davis, “They were but now the PCA is going to designating all those as SSTS now and have dropped the ISTS classification. They both mean essentially the same thing but in order to standardize it. It was commonly used, both terms were commonly used. Now they’ve gone to just SSTS.”

Ronning, “I move to table until the next meeting so we can all look at the same document.” Moegerle, “I’ll second.” DeRoche, “Done.” Moegerle, “We have to vote on it.” DeRoche, “All those in favor of tabling?” All in favor. DeRoche, “Opposed? Hearing none, motion passes.” Motion carries unanimously.

8.0B
Engineer

None.

8.0C
City Attorney
8.0C.1
Fire
Department
JPA

Vierling, “Just following up on a matter that you heard from the Fire Chief at your last meeting. I think Chief DuCharme can certainly report relative to meetings he has been participating in relative to the Fire Chiefs. I participated in a meeting with the various City Attorneys all with regard to a Joint Powers Agreement (JPA) that is being advocated with regard to the Fire Council, or what will be the replacement for the Fire Council.

At your last meeting, Chief DuCharme, I believe, indicated that there is a records management system (RMS) that all the Fire Departments would like to obtain. It’s something that Anoka County has certainly, I believe, funded and acquired from a vendor but they want to basically pass it off to an entity that will then manage control of it for various Fire Departments. Originally there was a concept of a Joint Powers Agreement (JPA) being formulated between the various cities that had Fire Departments to use this management system.

Recently, within the last several weeks, when the first draft of the Joint Powers Agreement came out, it became very clear that the draft of the Joint Powers Agreement wasn’t dedicated to this one piece of equipment. This one system. It has the ability to have the Joint Powers Organization buy additional equipment, or other capital expenditures, and builds in various funding mechanisms including bonding and other types of things. So, it’s gone, in fairness to what the Chief has expressed, from a single-purpose thought that they would have one purpose for this to an entity that would be broadly based and have the opportunity not only to buy this piece or system of record management, but in the future to buy other equipment and other systems as well. Chief DuCharme wasn’t in favor of that and I think expressed that to his colleagues.

In reviewing things with a conference call that was had with at least ten if not fifteen City Attorneys last week, which was an hour long and we got to two items before we ran out of time. It became eminently clear to me that the larger communities are clearly in favor of having a Joint Powers Agreement that builds in the additional possibilities of being able to acquire their equipment or to be used on a broader base. I don’t know that they have the intent, or, I’m not saying there’s any game plan to go out and buy all kinds of equipment. I’m just saying it has that potential, that opportunity.

Fire
Department
JPA

From my perspective, in the course of those conversations, it became clear from the smaller communities that they wanted at least a safeguard that before large capital equipment or large expenditures would be going forward, there would be a super majority required for the vote on that. Not simply a 51% but they wanted upwards of a 75% affirmative vote before this entity would be enabled and empowered to go out and buy other equipment. That comes into play because the various members pay for the equipment that it buys.

For example, under the initial calculations of the formula that I've seen, the City of East Bethel is, if you subscribe to this entity, you're in for 3.4% of whatever the fees are that they generate on an annual basis for that. Again, I talked to the Chief but I know he's still very much not in favor of that. Especially since the initial draft of the JPA has a provision that says once you're in, you can't get out for a full year. So, even if they go ahead and buy something that you didn't subscribe to, you're going to be financially 'on the hook' for one year anyway.

Further discussions were had, at least in the conference call that I participated in, about that issue and I think several people are coming back. But in any event, it's clear to me that the larger communities favor the more broadly powered Joint Powers Agreement. The ultimate question comes back to this community in terms of what your viewpoint is in belonging to that organization. I know it is not the organization in terms of its scope and authority that you wanted because it would have this additional power. But, two questions come into play. One is, if the concept of the authority to purchase or engage in those contracts required a super majority, number one, would that mitigate your feelings somewhat to be more in favor of it?

And, number two, if that Joint Powers Agreement were further refined so as to allow, let's say, any community not to have to wait a year to get out if they did something you didn't agree with. Maybe, I'm thinking something where you have a sixty day window after a major purchase is initiated. Where if a smaller community doesn't subscribe to that they would have the opportunity to withdraw, would that mitigate your feelings on the matter further? I certainly don't want to be in the position, I know the community doesn't either, where we are at odds with our other communities relative to the records management system because everybody wants that. And, I think people want to get that in place. Practically, realistically, given the volume and numbers of entities involved in this matter, I'm not sure how practical it's going to be for that entity to engage in big purchases just because of the bodies and numbers they are dealing with anyway.

But, the question comes back to this community. Are either of those two options: a super majority vote; or, limited window to get out, something that would enable you to consider to remain or look forward to participating in the JPA? Or, under any circumstances if it's a broad based entity? Or, if it's a broad-based entity do you simply not want to participate?"

Moegerle, "I have a question. Is there no option to do the record management system alone and then have a separate JPA for all the other people who want the purchasing abilities? Or, that's just not where this is headed?" Vierling, "Well, certainly not where it's headed and I think Chief DuCharme can indicate the history of how the record management system got discussed, how Anoka County funded it, and what the commitment is to Anoka County to get something done by 12-31 of this year. That will address that issue, I think."

Moegerle, "But, at this point, there's no way to do two. It's all or nothing?" Vierling,

There's well, I'd say clearly the larger communities have an appetite to have an entity that is not single purpose. That has other opportunities in front of it."

DeRoche, "Well, the question I would have, and maybe Mark you want to stand up, when did this blossom out of the records management? Because I remember going to meetings over at the Anoka County Sheriff's office and, when all the Fire Chiefs and Police and everybody were together and were all talking about the communication and the records management. I guess I would have to agree with Heidi. You know, right now are we trying to put this together and why don't they look at them as two separate items?"

DuCharme, "Certainly that's been a major discussion point. Your original question, Mr. Mayor, is when did this kind of evolve into a multi-purpose Joint Powers Agreement. I would say that was probably, it became clear about 120 days ago. Right in that area. Originally, we were looking for an organization that had some legality to it that could run the fire side of the record management system, which includes the CAD, dispatch systems, mobile units, record management system, emergency management system and that type of thing.

As our attorney referenced, Anoka County has dedicated over \$8 million for this project, for the purchase of the system. Their desire is specifically fire record management system to be turned over to a fire side entity to run and maintain that. And, the same thing with the law enforcement where they will turn over the law enforcement side to the Joint Law Enforcement Council. Now, the Joint Law Enforcement Council, I think as I said a couple weeks ago, they're already a formal organization. I think they operate under a Joint Powers Agreement. The fire side, the Anoka County Fire Protection Association, has never been Joint Powers Agreement. It's been kind of a loosely organized group of the Fire Departments.

So, as our City Attorney mentioned, last Thursday they had their meeting of the City Attorneys and then the Fire Chiefs got together last Thursday evening and we had our meeting. I brought the message, as I said I would from a couple weeks ago, that our position is we've go to narrow this Joint Powers Agreement down to only concentrate on the records management system. I do sense that the larger cities in the County are more interested in evolving and growing and having a multi-purpose.

Now, with that said, I don't necessarily think what they're proposing is all bad. But, I think it's something that we could grow into step by step. Right now, I think our focus has to be the records management system so we can go forward with that."

Ronning, "Who or how many want to be the '800 pound gorilla' in the program?"
DuCharme, "We have larger cities, mainly a little bit south of us. I do have a feel that what I consider the smaller cities comparable to East Bethel have the same concerns. I think some of those concerns are cities that border us also."

Moegerle, "Could we get an explanation of the e-mail that we got with the Excel documents? And, maybe this is something that we can get later on in the week because there's a CSO by City and then the five-year LECFS and that's an Excel document. Everything in 'green' seems to be large, which I think you are indicating to us that those are the ones that may want the...but I'd like an explanation of that if we could get that."

DuCharme, "I can go through that at a different time. I've been very intimate with this

program for the past three years as we've watched it grow and come together. We do anticipate that CAD is going to be, the new CAD, the new dispatch. It's going to be on line before the end of the year and we're almost there. Incidentally, you'll see a figure that, it looks like, and this is a pretty good estimate, for the East Bethel share of the fire record management system is going to be about \$3,200. That's something that will start in 2016. That's why it is not in the 2015 proposed budget. I just want to bring that up. I believe that \$3,200 is a really good number because I've gone over them pretty intensely.

As far as the law enforcement side, that comes out of the Anoka County Sheriff office. There's a section in that spreadsheet that shows about \$9,200 or \$9,900. I think it is right in there."

DeRoche, "It's showing Circle Pines and Lexington separate. They're not together any more?" DuCharme, "Centennial Fire District, which includes currently Lino Lakes, Centerville, and Circle Pines is going to be dissolving. Lino Lakes has issued their withdrawal and I believe that was a two-year notice that they had to give. So, that's why those are listed separate, because we know of the impending break-up of that."

Moegerle, "So back to the question of super majority versus the other option." Vierling, "The issue, I think, my feeling from the call, there was consensus that a super majority relative to capital acquisitions and financing should be required. I don't think that's going to be a contested issue. The issue of the opportunity to withdraw from the organization is another item. But, bottom line is with those two, if they were tailored correctly, mitigate some of your concerns about belonging to an organization that has the power to buy equipment or engage in capital events beyond simply the record management system?"

Ronning, "The super majority, how are the votes counted? Is it per capita? Or, does everybody get one?" Vierling, "No, there's a formula in the Joint Powers Agreement and the Chief is far more familiar with it. It's based on population, assessed valuation, fire runs, and a number of different qualifications. Fundamentally, I can tell you, if you take the five largest communities, you're already over 70% of the vote." Ronning, "Yeah, I was going to ask if there was any one or two that could get close to it and then they get a sympathy vote with them what happens?" DuCharme, "That's what our City Attorney has mentioned, that then the out would be if they shortened up that withdrawal from a year to maybe 60 days. Now, I do want to say this. That the Fire Protection Council does own property right now and they do own programs. One of the things that they do have is equipment for the Fire Investigation Team, the County-wide team. They also operate the Anoka County Fire Academy. So there are programs that are going on that would be incorporated into a new organization."

Ronning, "If our ante is \$3,200, what's the total pot look like? How much is in it?" DuCharme, "\$83,000, I think it is." Ronning, "How much?" DuCharme, "About \$83,000 for the..." Ronning, "And, how many communities?" Vierling, "Well, it depends on how you break it up. Because right now, there's a couple Joint Powers entities in there that have to be re-broken down to communities because it seems that the City Attorney's want to have all the members simply be the cities, not a Fire Joint Powers entities that exist today. So, if you have an existing Fire JPA out there that's got three communities in it, they're going to be represented by three votes and three separate communities. Every community would have a weighted vote based upon the formula that's set forth within the JPA."

DuCharme, "So, if there are 100 votes, we would have 3.4" Vierling, "Yup."

Fire
Department
JPA

Ronning, "How many of us little guys would have to get together to make a super majority?" DuCharme, "Quite a few." Ronning, "Can it be done?" Vierling, "No. The five largest communities are already over 72-73%."

Moegerle, "I think that rules out the super majority view." Ronning, "Right, that's why I asked what the votes mean. You can't make the rules if you don't know the game." Moegerle, "Sure." DeRoche, "Kind of reminds me of something else."

Moegerle, "The early exit seems to be..." Vierling, "I think the early exit gives you the opportunity, or gives any smaller community an opportunity to basically get out if they feel the organization is going in a direction that they don't subscribe to."

DuCharme, "Also, the City Attorney and I have had the conversation that doesn't mean that we can't participate because we could withdraw. You know if there's, maybe there's going to be a fire training facility built and we decide, the Council decides, we don't want to be any part of that. So, we withdraw from the organization. That doesn't mean we can't use it because I'm sure we could always go and rent the facility and the instructors and use it that way." Moegerle, "At a premium though because we've withdrawn, probably." Ronning, "Very probably, yeah."

Moegerle, "I don't like the idea of, you know, 'Well, things aren't going our way, we're stalking off.' I would much rather see these two things being separated and it's an option be a part of the purchasing but that 'horse has left the barn,' is what I'm understanding. And, that's not a likely option." Vierling, "That doesn't appear likely at this point."

Ronning, "Another part of the larger question is, how many smaller communities would get into the 'shark pond' with the rest of them? If you're the only one, it's hopeless. You're not going to vote against anything. If you're one, three, or four, or something, you're maybe going to have 30,000, 40,000 people compared to Blaine is 58,000 or something. So, it's end of story."

Moegerle, "What if we don't join the organization but want the RMS? Not a possibility?" Vierling, "Well, that hasn't been discussed at this point, unfortunately. You know, human nature being what it is, sometimes when people work towards a common goal and they get to a certain point in time and then somebody 'bugs out' there's some parochial feelings about that individual or entity. Those go away with time but usually that takes some time. On the other hand, what I've heard, and I certainly don't have first hand knowledge, the Chief certainly does, is that relative to the Fire Protection Council and its history, it has been a relatively collegial group of people that have always agreed." DuCharme, "That's correct. This has been a major, major decision making process."

Ronning, "What kind of expenses could we end up sharing?" DuCharme, "Well, right now the expenses that we share, actually the maintenance part of the record management system. So that's the updates and making sure the system is working correctly. Because the County paid for the system already. So, if we enter into the Joint Powers Agreement as is the proposed draft, now we haven't seen the final draft yet. But at the proposed draft, those things could be a multitude of items. Because, they would be allowed to purchase from real property to facilities to real people to issuing bonds. Another part, on the other hand, they may not do any of that because they still need that super majority, the 75%."

Ronning, "That's that '800 pound gorilla' again." DuCharme, "There you go." Ronning, "What does the \$3,200 turn into if there's minimum amount of small cities move in. Does that increase to pay the whole...there's an overall burden cost?" DuCharme, "You're right and that cost about \$83,000-\$84,000 per annum." Ronning, "And, if we're the only small city that goes in, does our \$3,200 change or stay the same?" DuCharme, "I would guess that if the number of participants get smaller, then that money has to be reassessed." Vierling, "It will all go up." Ronning, "Yeah, I'm sure it would. I just like people to hear what the details are."

Vierling, "Once again I want to stress that the County has paid, or is paying for the system, the \$8 million of the combined system."

DeRoche, "I don't think the records system...I don't think we have a problem with that up here. I could be wrong but it's the other." DuCharme, "And, Mr. Mayor, that's the message I brought to the group is, 'I don't think East Bethel has an issue with the cost of the record management system.' We've been talking about this for a while. Obviously, I'd like to see it a lot less but our share is going to be about \$3,200 in 2016. And, it's going to stay that way for five years and then year six the proposal is that estimate will go up about 2% a year. That's pretty much in line with sophisticated software items. I don't think we have an issue with that. I think that's justifiable and some good numbers."

DeRoche, "What do you think about it?" Koller, "I don't like signing in to something that could cost us a ton of money." Harrington, "Yeah. When Mark was talking about bonding, I don't like that bonding idea. You know, what's it going to cost us in the long run?" Ronning, "There's too many 'shadows' in this thing. It's not enough visible to me it seems like. And, there are too many variables. There's an awful lot of variables."

DuCharme, "I understand what you're saying. My plan is tomorrow to bring the 'feel' and 'feeling' of the Council back to the leaders of the group and just give them a short update of what the 'feel' is out here." Ronning, "If you want to buy a car, you can at least ask for the sticker to look at the price. This is almost 'stickerless.'" DuCharme, "Yeah, and I understand that. I also understand the 75% and the larger cities and certainly taking that withdrawal period of time and making that shorter."

Moegerle, "What is preventing the larger cities from just starting their own JPA? I mean, there's nothing that requires that they have common boundaries or anything like that. Why don't they just take this and start their own little organization? Is there something 'magic' about being a part of this RMS system?" DuCharme, "The records management system is an important piece to the City of East Bethel." Moegerle, "It is. Sure." DuCharme, "And the Fire Service along with law enforcement. That's an important part."

Moegerle, "Right but why can't the big cities go away and start their own JPA and leave us out of it? Why isn't that a simple thing?" Vierling, "Theoretically, that's possible in philosophy. I think the difficulty with the records management system is Anoka County has already bought it using the funds from all the taxpayers and they expect that all these Fire Departments are going to organize and use it."

DeRoche, "But again, it's not the records management system that I have issues with." Moegerle, "Right." Ronning, "No." DeRoche, "It's the add ons." Ronning, "Yup. The rest of it the bigger cities could do any how if nobody else signs up." DuCharme "Yes, they can. And some of the 'feel' I get from the Chief's meeting of last week, is that the cities

that want to go along with the JPA, the proposed Joint Powers Agreement, are just going to have to do that and see what the agreement looks like. Those cities that don't want to will elect not to. Then from there, those cities would have to..."

Ronning, "What are your thoughts about the revolving door, door opens once and then it shuts for good? Or how many opportunities are there?" DeRoche, "Is this a 'one and done' thing? Or is there another opportunity to look at things and, I guess, see how it's working out and then..." DuCharme, "Well that's certainly a possibility to get in and start this. Once again, I do wish they would have narrowed this down. And, like I say, what's in the draft Joint Powers Agreement, I thought maybe that would be a good 'road map' over the years to come. I don't know if every city is ready to jump into some of the goals and some of the ideas for the organization. Our mission really is to come up with a way to pay for the record management system, the maintenance part of it. Come up with a system of who we pay the \$3,200 a year to. To me, that's the mission." Ronning, "That's winning."

Ronning, "Do you know what the organization looks like? Is it a so many member..." DuCharme, "Well, the proposed organization would have one member from each city so East Bethel will have an elected official sitting on the Board. And, actually, it's kind of a two-tiered, is the way it is designed. So, you have your elected officials from every city that sit on the Board. Then you have your Fire Chiefs from each Department/District that sit on an operational, kind of a day-to-day operational board. And, once again, the elected officials will be making decisions on the capital expense budgets, I would presume, and things like that. But, that has to be a 75% super majority. Incidentally, the same falls... was proposed and accepted by a majority of the Chiefs on the day-to-day operation with the Fire Chiefs. That also has to be a 75% super majority on a weighted cost-type thing as far as the day-to-day operations."

Ronning, "Would there be any advantage to proposing a larger super-majority? That would create some protection." Vierling, "What number you want?" Ronning, "98." DeRoche, "But even at that, if you've got the five larger cities..." Ronning, "Well, something where the 'little guy' gets more 'say.'" DuCharme, "Certainly we can bring that forward, 80%, 85%." DeRoche, "But, what's the difference? You get the five major 'players,' they're going to have the 85%." Ronning, "The number would be at least enough to get the 'little guys' in the 'game.' I don't know if anybody would consider something like that or not." DeRoche, "What's that?" Ronning, "Raise the super majority high enough that one small group of 'big guys' can't over rule everything else. So the 'small guys' have a chance. I don't know if that makes sense to anybody else." Moegerle, "So, make it require them to get 87% so at least one of the 'small guys' has to go in with them?" DuCharme, "A couple of small guys." Ronning, "Yeah, so it doesn't get 'jammed down everybody's throat.'"

Vierling, "You know what you could do, I suppose, is require voting to have at least 50% of the members and 85% of the accumulative vote." Moegerle, "So, how many members are there? Member cities total?" Vierling, "The sheet I have is 16 but there's a Joint Powers Agreement and a dual organization in there. I'm not sure how many cities are in that JPA." Davis, "There's 21 cities in Anoka County." DuCharme, "So, actually it would be 22 with..." Davis, "Linwood, one township." DuCharme, "But one city outside the County, Champlin, belongs." Davis, "Plus the Township of Linwood." DuCharme, "That's true. So, what you're saying is 50% of the members, which would be at least, so if there's 24, for example, that would be 12." Vierling, "At least 12 and they must accumulate at least 80% of the vote." Ronning, "Hmm, interesting." Moegerle, "Yeah, that's interesting."

Ronning, "Very interesting. You'd probably have to try to figure out if it can add up that way. Don't get a 'hung jury' every time." Moegerle, "And maybe if this is a 'hung jury' every time, maybe that works for our advantage." Vierling, "You don't want an organization, I don't care what the organization is, especially when it comes to significant capital expenditures, you want everybody on board." DeRoche, "Oh, yeah." Moegerle, "Oh yeah." Vierling, "You really want everybody on board. So, from that standpoint and given the history of the existing entity, which, again I'm told, all the Fire Chiefs have been very good about it and have always gotten along. You know, requiring that level of majority really shouldn't be a problem."

Ronning, "Does Anoka County reserve any 'voice,' vote, 'say?'" DuCharme, "No. You're talking about the County as a political?" Ronning, "They have all the money in it and do they retain any jurisdiction?" DuCharme, "No. Well, the only jurisdiction they have is dispatch is theirs. That's a division of the County, Central Communications. So whatever equipment they have, that's theirs."

DuCharme, "Well, the plan is, from what I understand, the plan is to have all comments back to the Fire Protection Council by October 31st so we're 'ahead of the curve' here. I plan on talking to the leaders tomorrow morning via phone conference and certainly I'll bring that up about...and I'm not sure the City Attorneys are having another talk." Vierling, "I'll promise I communicate with the draftsman so she knows what's going on and you and I will coordinate in the morning so we send the same message." DuCharme, "Right."

Vierling, "With regard to Councilperson Ronning's thought process on that is the 80+% plus half of the voting members something that is of interest to this body?" Ronning, "If the numbers are all workable at least then it allows you a lot more 'voice' it would seem. But, it's not just my say. What's required of the different Councils and communities to proceed?" DuCharme, "Well, each jurisdiction, each city, is going to have to approve the Joint Powers Agreement, the final draft. And, so each city is supposed to be having this discussion."

DeRoche, "What do you hear from some of the smaller cities?" DuCharme, "Kind of waiting to hear what we're doing"

Moegerle, "As goes East Bethel, so does the...wow." Ronning, "We have to look at ourselves as 'some of the hair on the tail of the dog.' And, that's about as much as it's going to be." Moegerle, "Well, throw it out there and see if it 'catches any wind.'"

Ronning, "I appreciate all the information. I'm sure we all do. Do you have some guidance or thoughts with all that you've heard?" DuCharme, "Well, all along, from the Council my feel has always been that the Council would be supportive of belonging to an organization that's going to own and operate the record management system. So, that's the message that I've brought back via e-mail and meetings and things like that. That this is where I think we're going to have to be if East Bethel's going to be a signor. Certainly the proposal that 80% plus 50%, you know that's interesting. I haven't run the numbers on that either. I probably will tonight. It's interesting. And, there again, the people who have worked on this Joint Powers Agreement, this proposal, I think it's a very good document. I really do. I think it's a good document and I've recommend that we take that as a 'road map' and then if we all get along on the record management system, maybe we want to take a look at a portion of that and see if our City wants to be part of the next step."

Fire
Department
JPA

Ronning, "Is the draft document in any draft form stage? Or, is it a finished document?" DuCharme, "It's in draft." Ronning, "When would it be finalized as a complete document?" DuCharme, "Well, you know, they are asking for all the comments to be in by October 31st. Once again, the problem is the 'clock is ticking.' December 31st is the, you know, I don't know if you want to call it a 'drop dead' date, but when they need that organization up and running. What happens if it is not up and running? It could mean that the fire record management system, where it is at on December 31st, will stop and not be built and not worked on until some type of entity steps in."

Ronning, "Is that hostage taking?" DuCharme, "I'm not sure if it is but..." Ronning, "Close? My term, not yours. Yeah, interesting." DuCharme, "So I'll talk with also our City Attorney in the morning and we'll take the steps and keep coming back and updating you."

DeRoche, "So, they just weren't for the, 'Let's just do the record part now and see how that goes and then we'll ease into it?' All of a sudden the idea comes up, 'Hey, let's do a JPA?'" DuCharme, "The majority of the group of the Fire Chiefs were not in agreement of that. I was also a little bit surprised. I thought maybe that might be part of the attorney's discussion."

DeRoche, "Well, why wouldn't they want...I don't know, it makes me a little bit suspicious that why wouldn't they want to try it, work for it, and all of a sudden, I mean are they doing..." DuCharme, "I think, Mayor, some of the thought is that the Fire Protection Council has gotten along so well in the past 50 years that, you know, it wasn't something that they needed. Apparently, we didn't get that point across that we needed to look at a smaller scope. I think the membership heard me. In fact I know they did because I got some phone calls the next day."

Ronning, "Did they block their ID?" DuCharme, "No, they didn't do that." Moegerle, "Thank you." Ronning, "Let us know what we've got to do. We have to know." DuCharme, "Okay, thank you."

8.0D
Finance

None.

8.0E
Public Works

None.

8.0F
Fire
Department
8.0F.1
Sept. Fire
Department
Report

Fire Chief DuCharme, "Well, thank you Council. I'd like to present the September report for the Fire Department. First of all, I want to tell you that we did have our open house this past Saturday and that's opportunity for the community to come in and talk about fire prevention, talk about safety, and see displays and exhibits. The long and short is, we went through 192 hot dogs so that's about average. We were busy throughout the whole day and I would consider it a huge success. We did have a chili contest and I have to tell you this, Dan Berry, who's the District Chief out at Station #2 won. The second time he's won in four years so he came up with a great recipe. I did verify with his wife that he did do the cooking so he actually did do that.

We also just finished up today being in the schools. So, we were able to teach and show kids fire safety. About 600 kids is what we went through. That part of it is always a big

part of their school curriculum, especially in the early year. We deal with the preschoolers, kindergartners, all the way up through third grade. We did get our message out and that's important because if we get our message out, that does have an impact and does reduce the number of fire calls we go on. We did have a lot of our individuals, fire fighters, out there and man hours alone, we had well over 700 man hours that were devoted to the fire prevention part of it. So it was huge.

Now we're getting to our September calls. There are a couple calls I do want to note. We did have a building fire on September 28th and that was on Greenbrook Drive. That was the chicken coop fire that we talked about a couple weeks ago. The owner there said he did loose about 200 chickens in that coop. He said he doesn't sell the eggs or the chickens that he does that for his extended family. So, I've gone by there and I don't know if he's rebuilt the structure or not.

A couple other things. We did have another building fire and that was on the 20th over in Coon Lake Beach. What that actually was, was a remote control battery and I think I talked about this before where the remote control battery for one of these larger expensive remote control cars was being recharged and was over charged, got hot, and blew up. Incidentally, that's the same type of scenario that we had on Johnson Street about a year and a half ago with that remote control battery. What's even more interesting, is I fly remote control airplane and I have the same type of battery."

DeRoche, "So, what does that tell you?" DuCharme, "That tells you. I brought in a forensic investigators, private, stop by the Fire Station and we talked about this a little bit. And, if our residents are using these types of batteries, what they need to do is when the charge them, there's a special bag that you put the battery in. The Hobby Shop sells this. This bag is fireproof and explosion proof."

Ronning, "Are they Lithium Ion or Nicole Cadmium?" DuCharme, "No, their little..."
Ronning, "Ion? The Good ones."

DuCharme, "Yeah. We did follow up on an investigation and you'll see on your report the address is listed there a couple times. Then we had a small chimney fire at the beginning of the month. Minor damage. That was in September. Actually, that turned out all right but I want to use that as another learning opportunity for residents. We're getting into this heating season and there's a couple things that you'll see are consistent with our report. Number one, when we're using solid fuel, you've got make sure these appliances (fireplaces or wood stoves) are in proper working order and the chimneys are clear. That's going to save our residents a lot of heart break. The other thing you'll see is we had a number of gas leaks. As people start turning on their furnaces and things like that, some of these issues might have been there when they turned them off in the Spring, everybody kind of forgot about them. So, it's always good to have your heating appliances checked.

Throughout the month we ran 47 calls and of those 47 calls, 35 were for medicals. We ran a lot of medicals. Definitely medicals and EMS is in the news nowadays with viruses and things like that. We want to be sure that our responders are safe so we are encouraging and reminding them and enforcing that we've got to use our personal protective equipment. That includes gloves, if we need to wear splash protection we've got that. If we need to wear gowns, we've got that. We'll continue to enforce that and reinforce it with our firefighters."

Ronning, "Is there any training that goes with that? Everybody's up to date?" DuCharme, "We actually train every other month. One of the Monday nights are what we call 'medical training.' That keeps our certification. Half of our crew is emergency medical technicians. The other have are called emergency medical responders. Now, they used to be called first responders but EMRs. So, this is our continuing education. We have to have 48 hours every two years of continuing education. At the same time we work with Allina. In fact, they are our medical director. They come in with the latest and greatest."

Ronning, "On the medical calls, did we lose anybody?" DuCharme, "There was one, I believe, that didn't make it. In fact, there was one, yeah."

DeRoche, "Where are we at with the SCBA grant?" DuCharme, "The SCBA grant is still at FEMA headquarters. We haven't been disqualified but we haven't been awarded. That's been a number of months. There again, our SCBA, self-contained breathing apparatus, is starting to get to a point where it's starting to age. So, in the next couple years if we don't find some type of funding, we're going to have to come up with a plan to replace that. The hard part is these self-contained breathing apparatus units are about \$3,000 apiece right now. With all the new regulations and standards, that's pushed the cost up."

Ronning, "Didn't we have a conversation about that some time ago? Some months ago?" DuCharme, "That was when we submitted the grant and our share of that would have been, if it was fully awarded, would have been 10%, I think it was."

Ronning, "People've got to breathe." DuCharme, "Well, yeah, and that's what we use to get into not only fires, we use these on but other situations too." Ronning, "Confined space, there's a lot of stuff." DuCharme, "That's right. Anything else?"

DeRoche, "The open house was pretty good. A lot of people." DuCharme, "Yeah, there was. We had a good time. A lot of really good conversation this time."

DeRoche, "North few in their chopper." DuCharme, "Yeah, landed that right in front of our Station there. Actually in the back I suppose it was." DeRoche, "Yeah, the kids I bet kind of enjoyed that." DuCharme, "Helicopter lands and all of a sudden the rotors stop and the kids, well everybody walks out towards it and some kid, one of the kids said, 'Hey, can we get in?' And the pilot says, 'Sure.' It was like that, there had to be what, 15, 18 kids in that helicopter like right now."

DeRoche, "And the medics were really good. They were talking to the kids. Hopefully that's the only time they'll see the inside." DuCharme, "So, we had participation with the National Weather Service, sent information for us. And then we had Cedar Creek, they were there. Allina had an ambulance there. North, and the Sheriff's Department were there. Thank you." DeRoche, "Great. Wasn't St. Francis, a couple fire fighters there?" DuCharme, "Yeah. St. Francis came by and a couple other people, fire fighters making the rounds. The Lions did a great job for us. They fed everybody for us." DeRoche, "Chili and dogs."

Harrington, "I liked when they cut the car in half. That was very educational. All the hydrologic equipment." DuCharme, "That's a good example for people to see, what we spend our funds on. Thank you." DeRoche, "All right, thanks Mark." Moegerle, "Thank you." Ronning, "Yes, thank you."

8.0G
City
Administrator
8.0G.1
City
Administrator
Contract

Davis presented the staff report, indicating the employment agreement for the City Administrator is set to expire on December 31, 2014. Attached in your packet is a revised agreement with minor changes to clean up language within the contract. There is no proposed change in the compensation for this position.

The proposed Agreement would commence on January 1, 2015, and continuing thereafter until December 31, 2016, or until otherwise terminated pursuant to the provisions of the contract. The proposed contract would automatically renew for an additional two-year period unless either party provides written notice to the other on or before July 1, 2016, of intent not to renew this contract, in which case this contract shall terminate as of December 31, 2016. It is listed as 2018 in your write up. That should be corrected to 2016.

The new contract is identical to the existing agreement with the exception of the noted changes. The City Administrator position receives only those benefits as provided to any other City employee.

Council is requested to consider the extension of the attached agreement for the term as indicated.

DeRoche, "I move to go ahead with the City Administrator Contract." And, the correction has been made? Davis, "Correct. It is correct in the Agreement. I just wanted to correct it here on the write up page." **Harrington, "I'll seconded it."** DeRoche, "Any discussion?"

Moegerle, "Yeah, I do. We have a great City Administrator and I appreciate him and I think that he should continue on. My concern is that I remember very distinctly, December 15 of 2010. And, there were a lot of things done by that 2010 Council to rush things through at the end of the year and try to force things on the Council that came in, in 2011. One of the things is that we can't bind another Council but what my thought is with regard to this, is that this contract is coming up two and one-half months before it expires even though, technically, the election has not occurred and this is not a lame-duck session pushing this forward. I do think it has a strong taint of that. What my thought is, is this, that if we approve this at this point, we are invading the providence of the Council that will be here in 2015. So my thought is, either: 1. Extend this contract for another six months beyond its termination of December 31st of this year; or, 2. Extend it for two and one-half years so that going forward, a new Council coming in would have the City Administrator for six months and then have the opportunity to renew and ratify that contract. Again, this comes solely from my concerns in what we experienced in December of 2010. I think that Jack has done us a good job, he'll continue to do a good job, but I also know the things that happened December 15, 2010, took my breath away. As we learned more about what happened there, I just think that this is an opportunity to stand up with things that we said at that time and things that we did and say, 'We're not going to do lame-duck type of matters.' This contract doesn't expire until December 31st. I think it has that taint and the touch of it and so whatever works with the Council but my thought is either extend it by six months so that the new Council can ratify his employment or extend it for two and one-half years so while the 2015 Council wouldn't ratify it, but the 2017 Council could. Just my thoughts."

DeRoche, "Well, this has taint, or something, whatever you want to call it. This isn't anything like the contract that was coming up with the old City Administrator. Now you can call it whatever you want. You can say, 'Well, this is just because there's an election coming up. You know, you can 'spin' it any way you wish but the fact of the matter is, this

isn't anything like the contract that was negotiated while they were sitting up here over the course of about four separate meetings. And, I have no problems going ahead with this contract. I don't think anyone coming in, if they've been around the last four years and have seen where Jack has taken the City from to where we're at now. And to want to bring someone else in, you know, we're in the middle of some real key things going on. Moegerle, "I agree."

DeRoche, "And, I don't...you know, somebody wants to call it 'sour grapes' or, I guess I really don't care what they use. But, the fact of the matter is between Met Council and working with the bond companies and trying to figure out the sewer water thing, I think right now we need to stay with what we have. Because, it's like when Wendy left. You know, there's a lot of history. There's a lot of experience and Jack...I suspect I know where this is coming from and..." Moegerle, "I've told you where it's coming from." DeRoche, "Yeah, well."

Moegerle, "And, here's my concern. I think any type of contract that expires on December 31st is always going to have that question about it. We're here to raise the profile of the City. I have no doubt that Jack would be re...have his contract renewed in six months. But, I think we should allow that Council to make that decision. It's...how angry we were in 2010 of all the lame duck things that happened. I just remember that so clearly. I think his contract is going to be renewed. I can't imagine why this is the time to change it. But my point is, remember where we were four years ago. How we felt. What happened and just give the 2015 Council that opportunity."

DeRoche, "At that time, it wasn't so much the City Administrator that was the frustration. It was the five phases that could have cost the City \$560 million over the bonds, the interest, the amortization over the 30 years. That's where the frustration. It has nothing...the City Administrator was a very small part of that. Now maybe that's where your anger is, or was. And, again, I have my own personal reasons where I think this is coming from but so be it. I have no problems moving ahead with it."

Ronning, "What was the December 15th? Was that the bonding and contract letting?" Moegerle, "No, December 15th was when the City Administrator got a new contract at the last minute. There was more information that came out after that was approved where there were additional..." Ronning, "I remember he was telling what he wanted, writing it from the chair, said, 'Well I just want another couple years.'" Moegerle, "Absolutely and, you know, what..." Ronning, "But that's kind of small compared to what some of the big deals are. Is that the same time the bonding and contracts were let?" Moegerle, "The bonding occurred, I think, after the election in November. But, it was all the pieces. I just want to bring it up so that we remember the history in which we're going forward and have the opportunity to discuss it."

Ronning, "Have you been consistent with that thinking?" DeRoche, "No." Moegerle, "I think that there are other things that are going to be coming up December 31st that..." Ronning, "I mean you, personally." Moegerle, "I try to be. I'm sure I'm a flawed human being and I may..."

Ronning, "Were you thinking about Ron and me when you guys, when you and Steve voted for that money change with the Met Council in December on 2012?" Moegerle, "I'm sorry, I don't understand what you're referring to. Refresh my..." DeRoche, "Well, it had to do with the Met Council and the five amendments to the contract that over a five-year period

will cost the City \$280,000 and over a ten-year period will cost the City \$560,000. In which there were three people in the meeting, you, myself and Steve Voss and I said, 'No, remember what happened in the lame duck session?' And, everyone's comments, 'Oh, no, I know you can't make a decision so we're going to...no, you just need to do this.' And, I remember doing it and coming out here and saying, 'Look, we just had two more people voted and let's let them take a look at this.' 'Oh, no, we need to pass this.' And, it was passed on a 2 to 1 vote that night. So, that's not much consistency."

Moegerle, "Well, I'll take a look at that again. I am a human being and I can make mistakes. I'm just pointing this out." DeRoche, "That's fine." Moegerle, "So, there you go." DeRoche, "Anybody else?"

Harrington, "No, I don't have a problem with this." DeRoche, "Ron?" Ronning, "I don't have any problem with it either. I think Jack's the right guy in the right place at the right time and we're fortunate to have him. I have no problem asking him to stick around."

Moegerle, "And I don't disagree." DeRoche, "That being said, I call the question. I want a roll call vote. Jack, you want to call the roll?"

Koller, Harrington, Ronning, Moegerle, DeRoche – Aye. Motion carries.

9.0 Other
9.0A
Staff Reports

Davis, "We received 85 applications for the Community Development Administrative Assistant position. That's the one that's going to replace Carrie's job after she was promoted to fill Wendy's slot. Those applications were closed yesterday. We'll evaluate those and conduct interviews next Wednesday and have a recommendation to Council on November 5th for that position.

We were also notified by Anoka County that we received an additional \$8,190 on our Recycling Enhancement Grant. We applied for that to help cover the additional cost for removing the fuel tanks at the Recycle Center. There were some additional costs with soil remediation on that. So, that covers the bill on that. You'll probably notice that on your bill list on Pinnacle Engineering of approximately \$20,000. All that was covered under the Recycle Grant." DeRoche, "Excellent, that's good."

9.0B
Council
Report –
Member
Moegerle

Moegerle, "Sure. Coming up on October 29th is the Local Government Official's meeting in Blaine. They're going to be talking about transportation projects and issues. So, that's going to be a really good follow-up to some of the things we've been dealing with here.

On October 24th there's a webinar on zoning that's coming up. I'll be watching that from home but that one should be real interesting. I've already talked to some people at the League about that.

Then also today, East Bethel was noted for having the lowest gas prices in the region. Apparently that was over the radio. So, good for us. That's all I have."

Council
Member
Ronning

Ronning, "We had a Meet the Candidates meeting on October 2nd. It was organized and administered by the Seniors, I believe. Wasn't it?" Davis, "And the Chamber of Commerce."

Ronning, "And the Chamber. Excellent attendance. There were extra seats brought into the Council Chambers. There were seats out in the hallway. So, it was very well attended. At

the opening of the meeting, it was made clear that the audience would have the opportunity to ask questions by writing on paper distributed and returned to the moderator. I thought he said 3 by 5s but I guess you cut up paper or something for distribution. Moderator indicated response time from the candidates would be limited to two minutes. A good format; however, the questions would be screened and no questions regarding the sewer water utility would be accepted. Along with a couple other rules.

I have a problem with that. When a group of one or two people decide what a large group of people is entitled to hear on something like an election, that's censorship. A synonym for 'censorship,' other words, is: 'edit, cut, stifle, gag, repress, remove, amend, suppress, and control,' and, that's what I believe I saw. I think it might have been well attended but that's what came out of it.

And, the other thing about something like that is it clearly was meant to protect some of the candidates from having to answer certain questions, in my opinion. Nobody has to agree with me but that's, I don't know what else you could come up with out of it. And, tough questions are what elections are about, not soft questions. If we can't answer tough questions, we shouldn't be in the game. This is a very serious business. We're not in Sunday School. Everyone up here, all of us, and all the next ones and all the past ones should be accountable.

Another thing that was mentioned about *Robert's Rules* last time. And so there's no misunderstanding, these meetings are run exclusively by *Robert's Rules*. And they will continue to be as far as I can tell. Some things that are common during these times, campaign promises, commitments, and such. If any candidate would suggest a commitment or promise to do something or change something, they either don't know any better or they're really misrepresenting the truth. That's a soft way of saying something else.

No one Councilperson can schedule a meeting, can conduct business, can do anything. It takes two Councilpeople to request a meeting be scheduled; however, if only those people are there, the meeting can't be convened. It can't be begun, it can't be adjourned. There is no meeting. So, that's a simple way of saying campaign promises are a bunch of hooey. Nobody can do anything by themselves. It takes a majority.

Same rule for any other Council activity. It takes a minimum of three of the five members when they're all in attendance to present, to move, or vote on any measure. If four are there, it takes three of the four. If three are there, it takes two of the three. If anybody says they can work around that, that's either ignorance or untrue.

I have said and I believe at the present time our City faces some very serious economic challenges. If anybody suggests that our tough times are behind us, that's...nothing could be further from the truth. As things stand right now, we face bond payment obligations of approximately \$52 million. That counts what we...ERU obligation of \$24 million, or roughly \$75 million to \$77 million combined. The Met Council ERU portion will be reduced by reductions specifically related to future connections or eliminated should we get 5,495 connections. That's a little..." DeRoche, "Sarcasm?" Ronning, "That's science fiction. None of that's done or behind us. Absolutely nothing. We have experience and we know what five people can do to a City cost wise and rules wise, ordinances. Three of the five can do the same thing. If there's three, two people can make those decisions.

I've said this every place I get the chance. Please be careful and be aware of what is

Council
Member
Ronning

happening. If you're one of the five people, to me it's spooky what can happen with as little as two people, over 11,000 plus people. And, that's...I would also ask and advise everybody that everybody's vote counts. I haven't mentioned any names. I don't make any endorsements. That's...I don't know if that's legal even, but it certainly would be improper.

If you have questions, speak with somebody you trust or somebody you think knows the answers. Don't accept any double talk. If the answer is double talk and you don't understand it, there's something wrong. Most of these things are 'yes' or 'no' questions. Maybe it's 'guilty' with an explanation kind of a thing. Everybody please vote November 4th."

Council
Member
Harrington

Harrington, "Tom just took my line. Same thing. Do your homework about the candidates and please vote November 4th. Ronning, "Can't say that too many times."

Council
Member
Koller

Koller, "I don't have much to say. I've been sick for the last week so I've been out of it."

Mayor
DeRoche

DeRoche, "Well, yeah, vote. Votes coming up November 4th. I guess I would recommend residents do like Christine Howell suggested. Look things up. Do a little research. Look back on the record. Know your candidate. I don't know. Maybe it's my own being naïve but I expect people to be honest when they're up here and honest when they campaign and put it out there and whatever people decide, they decide." Ronning, "Amen."

DeRoche, "And to those people that are stealing my political signs, I'd like you to be aware of the fact that it is a Federal offense. I do have one trail camera where a picture was shot. I'm hoping it comes out because if I find out who's doing it, I'm going to prosecute. There's been about five of them that have disappeared and I don't appreciate it.

Other than that, boy, beautiful day. It's supposed to get nice weather. Boats and docks are starting to come off the Lake. Had a good time at the Fire Department Open House. The Lions, those people really work their butt off. Good cooks too."

9.0C
Other

None.

**10.0
Adjourn**

DeRoche, "And with that, I'll accept a motion to adjourn." **Ronning, "I'll make a motion to adjourn." Harrington, "I'll second."** DeRoche, "Any discussion? All in favor?" **All in favor.** DeRoche, "Opposed? Hearing none, motion passes." **Motion carries unanimously.**

Meeting adjourned at 9:05 p.m.

Submitted by:
Carla Wirth

TimeSaver Off Site Secretarial, Inc.

EAST BETHEL CITY COUNCIL WORK MEETING

OCTOBER 15, 2014

The East Bethel City Council met on October 15, 2014, at 6:30 p.m. for the City Council Work 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
 Mark DuCharme, Fire Chief

Prior to Call to Order, the Council held an informal discussion with the Boy Scouts relating to the work of the Council on the City's behalf and the Scout's work towards the Citizen Badge.

1.0 The October 15, 2014, City Council Work Meeting was called to order by Mayor DeRoche
Call to Order at 7:03 p.m.

2.0 **Moegerle, "I make a motion we adopt tonight's agenda. Harrington, "I'll second."**
Adopt DeRoche, "Any discussion? All in favor?" **All in favor.** DeRoche, "Opposed? Hearing
Agenda none, motion passes." **Motion carries unanimously.**

3.0 Davis presented the staff report, indicating the Council discussed a proposal for the
Proposed consideration of a Rental Ordinance at their October 1, 2014, meeting. As a result of this
Rental presentation, a Work Meeting was scheduled for tonight to continue the discussion.
Ordinance

Council has previously discussed the need for Rental Ordinance. As more rental properties have become available, instances have arisen that may require an ordinance that would cover issues of the concerns and protections of renters and lessees.

Blaine, Isanti, and St. Francis all have Rental Ordinances and those had been attached for your previous review.

Ham Lake, Oak Grove, and Cambridge do not have Rental Ordinances. Cambridge does have an ordinance that allows for rental inspections upon request of the tenant, neighborhood association, or owners. Cambridge considered passage of a traditional type rental ordinance but it was ultimately denied by the City Council and was replaced by a Request for Rental Inspection.

In addition to a Rental Ordinance, Council may wish to include in the discussion an Ordinance amendment that would enable the City to secure services to perform property maintenance activities on abandoned, cited, or unkempt vacant properties to prevent blight and eliminate situations that create public nuisances or unsanitary conditions.

The adoption of a Rental Ordinance would serve as protection to renters and could establish minimum dwelling standards related to health and safety. As with any new ordinance, additional staff time would be required for inspections and tracking of rental properties.

3.0
Proposed
Rental
Ordinance

Davis, "At this time, staff is seeking direction from Council on how to proceed on this matter, if a Rental Ordinance is to be pursued and if so, what format you would like to see something presented."

DeRoche, "Well, I guess I see need for a Rental Ordinance; however, I have some concerns. I think this is going to be one of those that's going to take a few meetings anyway. I would hate to see just this blanket ordinance where now we're going to have to require permits, we're going to require inspections, and it's going to cover everything from basic rentals to maybe some family member moving back home down in the basement temporarily and paying rent. Is that going to be under it? If it's not, then how do we legally say, 'Well, yeah, but we're going to make him follow the rules for rental but not you because it's just a family member.' I don't...Mark, can we do that?"

Vierling, "Well, I think what you're going to need to do is address what is defined as 'rental' and you can do that by way of whether or not there's a monetary payment being exchanged between the owner of the property and the person occupying it. You might want to specifically exclude people by relation of family, if that's what you wish to do. You do have the opportunity, of course, to be very specific in terms of how you're going to define what is a rental unit for purposes of regulation. Aside from that, as Jack indicated, you really have, you know, for what purposes do you want to regulate it. Certainly for the purpose, there are communities that regulate rental units to keep them from maybe housing people who are repetitive violators of local laws and nuisances and they want to keep that type of element out of the community and keep the problem that some communities have had with repetitive police problems in given units. Because, they always seem to have those types of issues. That's one thing you can certainly do. There are other communities that regulate rental units for purposes of quality of housing in terms of Building Code, health and safety, things of that nature. You can certainly do that as well. But under either of those scenarios, I think, you are correct in the sense of threshold issues. What do you want to call a rental unit? What do you want to call a rental arrangement? Because you can define that very specifically to exclude either family relationships or some other, perhaps, occupancies that are not based on a monetary payment or other circumstances that you feel shouldn't be necessarily subject to your regulation."

DeRoche, "Well, and I think I brought this up, there's some places I know over at the Beach that were and are rental properties that...I don't know, I think some of them are substandard. One particular situation that I know of, that she was approached on one where a house flooded. I know that there was another house that someone was living in, it was flooded two, three times. Severe mold, the floors were bad, and it was either quit complaining or move. So, I think when we put this Rental Ordinance, even like Cambridge, if the caller could say, 'Hey, this is a substandard house I'm living in.' Well, there's going to be the fear that if I call and complain they're going to 'boot' me out. So, how do you get around that?"

Davis, "There are Fair Housing Laws that address that and do afford protection to renters. Here again, it's a matter of their being able to access those and take advantage of what is offered as the protection. Again, and if I'm correct, those involve civil rights issues."

Vierling, "Beyond even that, even the State laws do allow a renter to pay their rent to the court if there's a problem with the structure where the landlord won't fix it. The problem goes to the fundamental nature whether or not the structure is safe and habitable. That's been in the State Law for years. Those things are handled currently in your community."

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Proposed
Rental
Ordinance

Because you don't have a rental ordinance, they're handled at the judicial level of the State court. Usually what happens is the renter becomes dissatisfied with the housing. They feel it's unsafe. The landlord won't make the repair. The tenant doesn't make the payment of rent. The landlord sues for what we call an 'unlawful detainer' to evict them from the property. The tenant appears and says, 'I've been withholding my rent because of this problem,' or something else. The court then instructs them to pay it into court and then they deal with the issue. So, what you can do and what some communities have done is take that issue really from that judicial level down to the City level by passing an ordinance on the quality of the rental housing. In fact, beyond that, there are communities that have Truth in Housing regulations that go beyond merely rental into all types of housing. If you want to do that as well. So, it's not that those folks don't have a 'voice' and don't have a forum to present their complaints. They do. But the issue for you is, do you want to bring that down to the City level so they can use your City ordinance as a basis to resolve those issues. And, do you want to be on the front end of having your Building Department working through those issues. From a licensure standpoint, before you would allow somebody to be a landlord and actually commercially let their place out for purposes of residential occupancy."

Moegerle, "I've got some thoughts on this. One, I like the definition that Blaine has of a rental dwelling. It indicates that, it means, 'The structure portion thereof which is designated use for residential occupancy by one or more persons who are not the owner or member of the owner's family.' I think that covers it pretty well. I'm particularly concerned about health and safety. This winter there were five kids that died in a house fire down in the Cities because there were no smoke alarms. I think, my concern is primarily safety. I saw, it was \$110 for an inspection, which I thought was kind of steep. But, on the same hand, you know, this is, it's important that we have rentals that are safe. I also thought that some of the inspections, well, conduct on licensed premises. To what extent does a landlord have the ability to control that? They can evict somebody who has been disorderly but how does that work?"

Vierling, "That has really been a major push. In the major metropolitan communities where, because of ordinances such as theses, the communities have forced the landlord to be more vigilant about his tenants. They have in their leases, basically, provisions with regard to conduct and behavior on the premises, numbers of police calls, things of that nature, doing any type of criminal activity on the premises. It forces the landlords to be more vigilant about who they let in and how they monitor and maintain their tenant base. One of the first communities who put this in was Brooklyn Park or Brooklyn Center, where you have a number of apartment buildings that are generating significant numbers of police calls. After the police are there repetitively, over time, the city certainly gets to appreciate how much manpower and how much their police officers are being dedicated to that. Rather than let the landlord sit by and not be more proactive, they have forced that aspect in their ordinances so the landlords become primarily responsible to the city to maintain a property so that you don't have criminal behavior on-going because it places the burden on the landlord to get rid of those tenants that are committing either criminal offenses on the premises or conducting various behaviors that are detrimental to the other tenants."

Moegerle, "Was that something that was designed particularly for apartment complexes? Because, certainly in East Bethel it's going to be somebody who owns an extra private home and that kind of stuff." Vierling, "It's not designed specifically for multiple family apartments. It applies to any rental."

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Rental
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Moegerle, "But, I would imagine that is where they have most of the problems. But, it could be both I suppose." Vierling, "They are not indigenous simply to the multiple-family units. Whenever you have an absentee landlord, you have the opportunity for all kinds of behaviors to be going onto the property that are problematical to the neighbors as well."

Ronning, "I'm concerned about the safety issues myself. I'm not real interested in some of the, without mentioning the name, there's three pages, three single pages of definitions like 'building, dwelling, dwelling multiple family, dwelling unit, garbage.' 'Garbage' is number 8, 'refuse' is 19, and 'rubbish' is 25. It's a little bit of humor in there. So, nothing really cumbersome, you know something that protects the City, protects the leaser and the lessee, especially the person living in the house or whatever the unit might be."

Vierling, "I appreciate that but in terms of drafting ordinances, the 'Devil's always in the detail' and whether you have it drafted in such a fashion so it's going to be enforceable and you're not going to have any gaps in coverage so that somebody could sneak through an area that you hadn't thought through. I would expect, when you look through the ordinances from various communities, there's probably a fair amount in there that's also dovetailed into their other community ordinance sections where they're trying to mesh into their framework of ordinances."

Moegerle, "How many rental units do we estimate that we have? Jack, do you know?" Davis, "We don't have any idea because they're not required to be listed as such."

Ronning, "Certainly a consideration that in the eight years I've been coming to these meetings, this is the first time I've heard of it. It's not a 'burning' issue but we don't want people dying in a fire trap or can't move out of a mold-infested..."

DeRoche, "If you remodel a house now days, you have to put fire alarms in it." Ronning, "If you do any upgrade. If you put windows in you have to have a smoke detector." Harrington, "Carbon monoxide detector." Ronning, "Right, CO₂, carbon monoxide, CO."

DeRoche, "So, how are some of these rental properties that are having to do windows, doors, electrical, and everything else being done? Nothing's being upgraded." Moegerle, "They're grandfathered in, I don't know." Ronning, "If you have a contractor, you're going to get a permit and the permit requires upgrading the necessary items."

Davis, "If there's a permit pulled, then those requirements would have to be met. Now, there may be some instances where certain improvements are made without pulling a permit. If we find out about those, we'll certainly take care of the situation. But, if the permit's pulled and the thresholds are triggered, those safety improvements will have to be incorporated per the Building Code."

DeRoche, "Even if there was some kind of a registry in the City for rental properties. If someone comes in for a remodeling permit or building permit and it's 'flagged' as a rental property, then it could be brought up. 'Well, okay, do you have all these amenities here.' Yeah, fire's bad stuff and fire alarms...Mark, you want to step up here? We're discussing a Rental Ordinance and safety and fire hazards and stuff. What's your take on a requirement of fire alarms and stuff?"

DuCharme, "First of all, all units whether rental or not need to have smoke detectors. That's our first line of defense. I kind of heard somebody mention the carbon monoxide

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detectors, which in new construction are needed now. Just general housekeeping is always important. You know, how you accomplish whether or not people are actually adhering to those rules, that's where the difficult part of this, I think, comes in. Certainly there's cities within the State that require a fire safety inspection or some type of inspection before. And, there's other cities that don't require it and rely on some of the housekeeping ordinances that we have. But, I think it's mandatory that somehow we need to have the smoke detectors. That's your first line and the carbon monoxide."

DeRoche, "Is there any 'blanket' Statute, State law that says, especially if it's a rental property, that you know of that says it must have smoke detectors, CO₂ detectors?" DuCharme, "Short of, you know, Building Codes and things like that...Mr. Mayor, I'd have to research that to give the accurate Statute and things like that. Especially on new construction, new construction that's already built in or any type of remodel. That's already built into the Building Code and the Fire Codes."

Ronning, "Assumptions are rarely safe, but assuming there aren't any real, if anybody is aware, they would have to mention what they are, somebody that makes a living renting homes. The ones I'm aware of, somebody hasn't sold their home yet so they rent it out until it sells. Then you're done. Or, they rent something out for a length of time for somebody else's convenience or things like that. It's kind of a complicated thing, how much you want to regulate. How much should be regulated."

DeRoche, "There again, enforcement." Ronning, "Yeah." DeRoche, "I think it would, you know, at least give people that are renters something now if they are basically told it's 'move.' Then someone else moves into that same situation and nothing ever changes. That's not to say that all people that rent out are slumlords, but there are some, 'I'd just as soon save a few dollars' and, kind of 'roll the dice.'"

Ronning, "There's other considerations. If it's wintertime and somebody hasn't paid their rent for a year and a half, you aren't going to tell them to 'hit the road.' Vierling, "Yes, you would." Ronning, "You can't evict them as such can you?" Vierling, "Oh, yes you can. You're thinking of the Cold Weather Rule where the utilities can't shut off utilities in the cold weather. A landlord can evict a tenant for nonpayment of rent at any time." Ronning, "One of my brothers-in-law is a landlord and he says he hasn't been able to evict them. But, that's, whatever."

DeRoche, "What do you think Ron?" Koller, "Well, I don't think it's a real problem right now but it will come up eventually. The safety part is the only part I'd be really concerned about. If you list it as a rental, it should have an inspection of some kind." DeRoche, "Right." Koller, "But, we don't want to go over board on rules."

DeRoche, "I think we have to come up with something and staff's looking for direction on where to go with it."

Ronning, "You mentioned a couple meetings. First of all, you're going to have to try to define some parameters, I would think. We can't just say, 'Well, I like this. Let's take this one.'" DeRoche, "No but what we could do is kind of go through some and submit them to Jack and say, 'Well, this is what I think should be in here.' You get five people putting in what they think and then have another meeting and say, 'Okay, let's take a look at what people think should be in there.'"

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Davis, "If you want to approach it that way, you can send your thoughts and concerns and we can pull together something as a rough draft, at least for discussion purposes."

Moegerle, "I guess a question I have is with regard to the last one, which was Cambridge, where they just gave the right for the inspection to occur. I think we're looking for more than that. Is that a consensus of the Council at this point? That we want more than just having the right to call the City to come in and inspect the premises?"

DeRoche, "Yeah, I think we have to give renters an opportunity where they don't have to be the one to call because it's substandard. I think that's just going to put people on the spot and it's not going to be taken care of."

Davis, "Generally, if it's not a call or complaint, if it's something that is being reported to us, we have to get permission from an owner to inspect. Or, if there's actually a renter there, then they do have control of, a certain control of, the premises and we can come in there and look. Then we can come in there and make a report. If there are certain things like mold that don't fall under the Building Code, which we don't really have a lot of control over, then we'd have to report that to the County Health Department. They'd have more powers on that than we would. I do think some of the onus on this is going to be on the tenant as far as reporting things. I don't see how we're going to get around that. Hopefully there's enough protections, State and Federally, if there's ever a retaliation. I do think that they're going to have to be part of the solution to the problem here."

DeRoche, "I have no doubt they have to be part of the solution but I just, I know quite a few people that maybe aren't so well off and they're kind of, a couple kids and in a situation where...where are they going to go? And, granted, they may eventually, you know if it goes to court and everything works out great. But in the meantime they're going, 'Well, what the heck?' Where if we had some kind of registry that if you're going to rent out to other than family or, you know, friends, I don't know how you'd separate that."

Davis, "I would like to point out, on the Cambridge situation, it is part of their request for inspection. They did adopt a City Housing Code, which establishes minimum standards for facilities. It also establishes minimum standards and responsibilities for owners and tenants. That's in their code. It's probably about 20 pages long and it does give standards as to what would be enforceable and what constitutes things that need to be looked at."

Moegerle, "That would be interesting to see, at least on my part. But, just what we have from them right now, I don't think that really fills the need. I like what Blaine has. They seem to be pretty organized and don't have as many definition sections, which I imagine they rely on other ones outside of this. But, it seems to be well organized. The cost of the fees is a little steep."

Davis, "Really, all three of those ordinances, they are all three very similar. The one from St. Francis is probably much more detailed. When you get to examining Isanti's and Blaine's, they almost mirror each other. There are a few minor distinctions but for the most part, they're similar."

Ronning, "In as much as, I'm certainly not aware of any imminent danger to anybody. I could see this more issue driven than an umbrella or ordinances to cover everything from 'mice to lampshades.'" DeRoche, "Well, it is issue driven." Ronning, "Right. That's my thought." DeRoche, "Otherwise, it wouldn't have come off."

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Moegerle, “And, one thing I didn’t read in here really, is any protection against flooding. I saw, obviously, the fire. But, flooding is something that’s been an issue for our residents. Maybe I just skimmed by that.” DeRoche, “Pipes freeze and burst, ‘Well here, you fix it.’” Moegerle, “Or, where do you go until the pipes are fixed?”

DeRoche, “Right. You got any take on this Shelly? No? Well, I ask everybody. You’re a resident. We’re looking at putting together some type of Rental Ordinance. I ask everybody’s opinion. Well, I say we each come up with what we think we would like to see in there. Jack, can you, on that one with Cambridge, get any more information on that one?”

Davis, “Yeah, I’ll forward everybody the Housing Code section that they adopted as part of that. And, one other thing about those, the way those operate, is if there’s a request for an inspection, the requestor pays \$40, which is an escrow amount. If the inspection reveals there are things that are out of compliance, then that money is refunded back to them. Then the owner is responsible for that fee plus they have to correct the deficiency.”

Moegerle, “I have one other comment. Paragraph 4, ‘In addition to a rental ordinance, you may wish to discuss amendment to secure services to perform property maintenance.’ But, we have a Nuisance Ordinance. How is our Nuisance Ordinance not sufficient to provide what you’re suggesting here?” Davis, “It doesn’t provide much detail. It gives us very little latitude in relation to unkempt properties where people don’t know it or let the weeds grow up or it’s a foreclosure and they walk away from and the bank does it. We really don’t have a mechanism to go in there and have the work performed and have it assessed, at least in our ordinance. It’s something we might want to look at as far as broadening some of the scope of the things we can do to correct that.”

Moegerle, “Well, should we expand the nuisance separately from the rental?” Davis, “Yes. But, while we’re discussing rental and stuff like this, that’s another thing we need to take a look at, probably. Start now so if we do something, it could be in effect by next spring when a lot of those issues come up.”

Ronning, “Is this Cambridge, the one Cambridge has?” Davis, “Yes.” Ronning, “Okay, it’s in our packet.”

DeRoche, “Well, you got enough direction there Jack?” Davis, “Yes, if you’ll give me some of what your thoughts are then we’ll put something together and come back and discuss it.”

Koller, “I like this little checklist that Blaine uses. It covers all the safety and makes sure the house is livable. I don’t want to go overboard on rules and regulations.”

4.0
Adjourn

Moegerle, “**I make a motion we adjourn.**” Harrington, “**Second.**” DeRoche, “Any discussion? All in favor?” **All in favor.** DeRoche, “Opposed? Hearing none, we’re adjourned.” **Motion carries unanimously.**

Meeting adjourned at 7:35 p.m.

Submitted by:

Carla Wirth

TimeSaver Off Site Secretarial, Inc.

SECTION I: LIABILITY COVERAGE WAIVER FORM

Cities obtaining liability coverage from the League of Minnesota Cities Insurance Trust must decide whether or not to waive the statutory tort liability limits to the extent of the coverage purchased. The decision to waive or not to waive the statutory limits has the following effects:

- *If the city does not waive the statutory tort limits*, an individual claimant would be able to recover no more than \$500,000. on any claim to which the statutory tort limits apply. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would be limited to \$1,500,000. These statutory tort limits would apply regardless of whether or not the city purchases the optional excess liability coverage.
- *If the city waives the statutory tort limits and does not purchase excess liability coverage*, a single claimant could potentially recover up to \$1,500,000. on a single occurrence. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to \$1,500,000., regardless of the number of claimants.
- *If the city waives the statutory tort limits and purchases excess liability coverage*, a single claimant could potentially recover an amount up to the limit of the coverage purchased. The total which all claimants would be able to recover for a single occurrence to which the statutory tort limits apply would also be limited to the amount of coverage purchased, regardless of the number of claimants.

Claims to which the statutory municipal tort limits do not apply are not affected by this decision.

This decision must be made by the city council. **Cities purchasing coverage must complete and return this form to LMCIT before the effective date of the coverage.** For further information, contact LMCIT. You may also wish to discuss these issues with your city attorney.

The City of East Bethel _____ accepts liability coverage limits of \$ 2,500,000 _____ from the League of Minnesota Cities Insurance Trust (LMCIT).

Check one:

The city **DOES NOT WAIVE** the monetary limits on municipal tort liability established by Minnesota Statutes 466.04.

The city **WAIVES** the monetary limits on tort liability established by Minnesota Statutes 466.04, to the extent of the limits of the liability coverage obtained from LMCIT.

Date of city council meeting November 5, 2014 _____

Signature _____ Position _____

Return this completed form to LMCIT, 145 University Ave. W., St. Paul, MN. 55103-2044



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

Item 7.0 B.1

Agenda Item:

EDA Citizen Member Appointment

Requested Action:

Consider the recommendation by the EDA for a member vacancy appointment

Background Information:

City Council approved a change in the process of interviews for Commissions/Authority positions at the September 3, 2014 Meeting. Candidates for vacancies are now interviewed by their respective Commission/Authority and a recommendation is presented to City Council based on that action.

The EDA interviewed two candidates for the vacant position on the Authority at their October 20, 2014 meeting and as a result of that meeting selected Doug Welter as their recommendation to fill Mike Connor's term which expires January 31, 2018.

Attachments:

Attachment 1-Doug Welter Resume

Fiscal Impact:

Recommendation(s):

The EDA recommends that Mr. Doug Welter be appointed to fill the vacancy on the Authority with the term of appointment to expire on January 31, 2018.

City Council Action

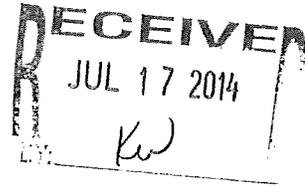
Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____



Doug Welter

30790 South Hill Rd.
East Bethel, ME 05033



City of East Bethel

30790 South Hill Rd.
East Bethel, ME 05033

30790 South Hill Rd.
East Bethel, ME 05033

City of East Bethel,

I am writing to express my interest in serving as a member of the Economic Development Authority.

I have been a resident of East Bethel for the last sixteen years. I recently retired from my full time position as Director of Education for a medical device manufacturer and now I have both the time and the interest increasing my involvement in my community.

I currently serve on the Board of Directors of the Beaverbrook Tri-County Sportsmen's organization.

I worked for the past forty years in the medical device industry. Upon retirement last year, I established an LLC and now provide consulting services on a part time basis. I have a Bachelor's degree in Mathematics and a Master's degree in Business Administration. My current resume is attached.

Please contact me with any questions.

Sincerely,



Doug Welter
Chief Education Officer
Welter Education and Consulting
7/16/2014

DOUGLAS WELTER
20590 Austin Street NE
East Bethel, MN 55011

SUMMARY

I am a Training and Education professional with a strong background in customer and sales education. I have experience building effective partnerships with senior management for strategic and tactical positioning of education solutions to increase market share, enhance customer relations, and achieve of revenue goals. I am skilled in communication, project management, facilitation, problem solving and selling skills.

PROFESSIONAL EXPERIENCE

WELTER EDUCATION AND CONSULTING – Cedar, MN

2013-Present

Chief Education Officer

Offerings in education and consulting in the areas of:

Medical Devices

- Cardiac Rhythm Interpretation
- Pacing Concepts
- Defibrillation Concepts
- Cardiac Resynchronization Concepts
- IBHRE Exam Preparation

Business Effectiveness

- Selling Skills
- Building Effective Relationships
- Interviewing Skills

SORIN GROUP – Plymouth, MN

2010-2013

Director, Education and Training

- Building a team to address needs with customer education, field education, technical services and arrangements with health care professionals.
- Revised new hire training program with focus on clinical outcomes.
- Revised training and certification process; improving the technical and clinical knowledge of the sales force.
- Developed education strategy based on customer and employee needs and tied to business goals.

BIOTRONIK, INC. – Lake Oswego, OR

2004-2010

Senior Manager, Education and Training

- Improved sales force effectiveness through implementation of a selling skills training program and a standardized certification process for technical and clinical competency.
- Improved customer relations by implementing physician training programs for clinical competency by partnering with hospitals and key physician groups to provide proctored training sessions.
- Reduced training costs and improved participation in customer education programs by implementing a new communication process for the field sales force.
- Developed and implemented Cardiac Resynchronization Therapy training and certification process for Field Sales employees.

GUIDANT CORPORATION - St. Paul, MN

1999-2004

Manager, Learning and Development

- Significantly improved R&D compliance with project milestones by partnering with functional management to implement targeted development programs to improve project management skills.
- Improved management effectiveness and employee engagement through development of a strategic education plan which aligned educational curriculum with business unit objectives.
- Provided performance development focus for management and employees through the development of integrated competency models to align succession planning, performance management, employee selection and career development processes.
- Reduced training expenses by obtaining master trainer certification and conducting instructor certification programs.
- Increased organizational impact of training initiatives through the development and implementation of evaluation and assessment processes for education curriculum.

MEDTRONIC, INC. - Fridley, MN

1984-1999

Manager, Education and Research

1997-1999

- Improved customer relations through the design and development of educational curriculum to meet customer needs for cardiac surgery therapies.
- Improved sales effectiveness through the development of education strategies and tactics linked to business objectives and marketing plans.
- Increased the customer base by implementing education programs targeted to meet emerging needs.

Manager, Product Education

1995-1997

- Significantly reduced the time required for sales representatives to develop competency in new products and therapies through the creation of training curriculum to support the needs of new hires, existing field sales personnel and customers for the market release of new cardiac rhythm management products and therapies.
- Increased product acceptance rate through the development of an education strategy aligned with business objectives and marketing initiatives.

Manager, Technical Services**1987-1995**

- Decreased the response time to technical inquires through the development and implementation of strategies and tactics to meet the technical support needs for sales and marketing employees, customers and patients.
- Eliminated complaints regarding availability of technical support through the development and implementation of a redundant coverage on-call system, insuring 24-hour technical assistance to customers and field sales personnel.
- Provided technical and education support to the Law Department, Engineering, Marketing, Customer Education and Marketing Communications.
- Improved sales support and employee business acumen through the development and implementation of a program for training in-house personnel to provide surgery coverage assistance to the field sales force.

MEDTRONIC, INC. - Fridley, MN (continued)**1984-1999****Sales Representative, CRM Product****1984-1987**

- Increased sales unit volume by 110%
- Increased sales revenues by 150%
- Increased average selling price by 20%

EDUCATION

- Coursework in Educational Doctorate program University of St. Thomas, St. Paul, MN
- MBA degree - University of North Dakota, Grand Forks, ND
- B. S. degree in Secondary Education, major math - University of Wisconsin, Superior, WI

OTHER EXPERIENCE AND CERTIFICATIONS

Master facilitator, facilitation skills (DDI)
Master facilitator, interviewing (DDI)
Facilitator, selling skills (Wilson Learning)
Facilitator, social styles (Wilson Learning)
Facilitator, Coaching (Wilson Learning)
TESTAMUR NASPE_xAM/AP
United States Air Force



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

8.0 A.1

Agenda Item:

Proposed Septic System Ordinance Amendments

Requested Action:

Consider amending City Code Chapter 74, Section II

Background Information:

City Staff is recommending amending the Septic Ordinance Chapter 74, Section II of the East Bethel City Code. The proposed changes are necessary to reflect the recent changes in the State Code, 145 A. 05 and 115.55 and in the MPCA Administrative Rules Chapters 7080 through 7083.

Adoption of the proposals would update our current Ordinance with the recent revisions to the State Statutes and MPCA Administrative Rules and clarify areas of ambiguity present in our Code.

Adoption of the new state regulations would provide less restrictive standards in the following areas:

- The State allows each City to permit a 15% reduction in vertical separation between the bottom of the drainfield to the restricting layer or redoximorphic features on existing septic system.
- Setback from detached accessory buildings with no basements, on the same property may be reduced by 50% if approved by the Building Official
- Modification of tank size requirements to a smaller size.

Changes for Statute and Administrative Rule compliance and others recommended by Staff are included in Attachment 2.

Attachments:

Attachment 1- Existing Ordinance

Attachment 2- Proposed Ordinance 74, Section II

Attachment 3- Summary of Proposed Changes

Recommendations:

Staff recommends Council consideration to amend Chapter 74, Section II (Ord. No. 61F, § 10, 2-16-2005; Ord. No. 61G, § 11, 10-18-2006) to comply with the changes as noted in Attachment 2.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

ARTICLE II. - SEWAGE TREATMENT**Sec. 74-19. - Purpose and intent.**

The purpose of the sewage and wastewater treatment and disposal standards shall be to provide minimum standards for and regulation of individual sewage treatment systems (ISTS) and septage disposal, including the proper location, design, construction, operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minn. Stats. chs. 115 and 145A and Minnesota Rules ch. 7080, as amended, that may pertain to sewage and wastewater treatment in the city.

(Ord. No. 61F, § 1(1.1), 2-16-2005; Ord. No. 61G, § 1(1.1), 10-18-2006)

Sec. 74-20. - Applicability.

This article shall apply to those sites, properties or facilities which are licensed, permitted, or otherwise regulated by city ordinance, and/or located within the city.

(Ord. No. 61F, § 1(1.2), 2-16-2005; Ord. No. 61G, § 1(1.2), 10-18-2006)

Sec. 74-21. - Authority.

The ordinance from which this article is derived is adopted pursuant to the authorization contained in Minn. Stats. §§ 145A.05 and 115.55.

(Ord. No. 61F, § 1(1.3), 2-16-2005; Ord. No. 61G, § 1(1.3), 10-18-2006)

Sec. 74-22. - Administration.

This article shall be administered by the city building department. The term "department," where used in this article, means the city building department.

(Ord. No. 61F, § 2(2.1), 2-16-2005; Ord. No. 61G, § 2(2.1), 10-18-2006)

Sec. 74-23. - Compliance.

No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of any individual sewage treatment system, except in full compliance with the provisions of this article.

(Ord. No. 61F, § 2(2.2), 2-16-2005; Ord. No. 61G, § 2(2.2), 10-18-2006)

Sec. 74-24. - Conditions.

Violation of any condition imposed by the city on a license, permit, or variance shall be deemed a violation of this article and subject to the penalty provisions set forth in section 74-41.

(Ord. No. 61F, § 2(2.3), 2-16-2005; Ord. No. 61G, § 2(2.3), 10-18-2006)

Sec. 74-25. - Standards adopted by reference.

The city hereby adopts, by this reference, Minnesota Rules chs. 7080 and 4725, along with any future amendments.

(Ord. No. 61F, § 2(2.4), 2-16-2005; Ord. No. 61G, § 2(2.4), 10-18-2006)

Sec. 74-26. - Permits.

- (a) No person shall install, alter, or extend any individual sewage treatment system in the city without first applying for and obtaining a permit from the building department and at the same time paying a fee as listed in the fee schedule determined by resolution by the city council. Staff will notify the permittee of an incomplete application, when the requirements are met a permit will be issued. Such permit shall be valid for a period of 12 months from the date of issuance.
- (b) A full septic design meeting the requirements of Minnesota Rules § 7080.0110, subpt. 5a must be submitted before a building permit for new construction is approved. The septic design and house plans must indicate the same number of bedrooms. In the event there is a discrepancy in the number of bedrooms, the building permit will not be issued until the discrepancy is resolved to the satisfaction of the building department.
- (c) When weather does not allow a full site evaluation to be completed, a design of the worst case scenario shall be submitted. Worst case scenario shall be a mound system, septic tanks and lift station. If the county soil survey is consulted and research of neighboring systems indicates that an in ground system is appropriate, that may be designed. A site-specific design is required to be submitted when weather permits.

(Ord. No. 61F, § 2(2.5), 2-16-2005; Ord. No. 61G, § 2(2.5), 10-18-2006)

Sec. 74-27. - Inspections.

The permittee shall notify the city prior to the completion and covering of the ISTS. The installation and construction of the ISTS shall be in accordance with the permit requirements and application design. Inspections will be made at least once during the construction of the ISTS at such time to assure that the system has been constructed per submitted and approved design.

- (1) No part of the system shall be covered until it has been inspected and accepted by the inspector unless prior arrangements have been made.
- (2) Proposals to alter the permitted construction will require an amended design be submitted to the building department for review.
- (3) It shall be the responsibility of the property owner or authorized agent to schedule an inspection on the workday preceding the day inspection is desired.
- (4) The permittee shall complete a signed as-built drawing indicating the location and setbacks of all tanks and soil treatment area. The location of the manhole covers on the septic tanks must be noted by measuring from two points of the structure to the center of the cover. As-built must be submitted to the city inspector at the time of inspection.
- (5) If proper notice is given and the inspector does not appear for an inspection within two hours after the time is set, the permittee may complete the installation. The permittee shall then file a signed as-built, including photographs of the system prior to covering, with the city within five working days. The as-built shall include a certified statement that the work was installed in accordance with submitted design and permit conditions and that it was free from defects.

Upon satisfactory completion and final inspection of the system, the inspector shall issue a certificate of compliance. If upon inspection the inspector discovers that any part of the system is not constructed in accordance with the minimum standards provided in this article, the inspector shall give the applicant written notification describing the defects. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

(Ord. No. 61F, § 2(2.6), 2-16-2005; Ord. No. 61G, § 2(2.6), 10-18-2006)

Sec. 74-28. - Operation guarantee.

Neither the issuance of a permit nor the inspection of a system shall constitute any warranty or guarantee of operation of the system.

(Ord. No. 61F, § 2(2.7), 2-16-2005; Ord. No. 61G, § 2(2.7), 10-18-2006)

Sec. 74-29. - Existing system compliance inspections.

An ISTS shall require a compliance inspection when any of the following conditions occur:

- (1) A building permit which requires a plan review is applied for in a shoreland management area (1,000 feet of a lake, pond or flowage; or 300 feet of a river or stream or the landward extent of a floodplain).
- (2) A tract of land located within the shoreland management area on which a dwelling is located is offered for sale or transferred to another party.
- (3) The addition of a bedroom on the property, or variance issued in accordance with Minnesota Rules § 7080.0305, subpt. 3 (general requirements for local units of government). If a request for an additional bedroom or variance is received between November 1 and April 30, the city may issue a permit or variance immediately with the requirement that a compliance inspection be completed by the following June 1 and the applicant submits a certificate of compliance by the following September 30. If a system is deemed noncompliant and is not an imminent public health threat, a property owner applying for a building permit to construct a bedroom addition has ten months from the date of issuance of such permit to bring the system into compliance.
- (4) If an existing system (constructed prior to April 1, 1996) is not an immediate public health threat, the tank is watertight and provides at least two feet of soil separation, the system does not need to be upgraded, repaired or replaced or its use discontinued, as long as the system is not located in the shoreland area, wellhead protection areas (200 feet from any public water supply well, that is any well serving 25 persons or more for 60 days of the year) or serving as a food, beverage, or lodging establishment. The three-foot rule applies in those circumstances.
- (5) Certificates of compliance or notices of noncompliance shall be issued on the state pollution control agency's (MPCA) inspection form for existing septic systems. Copies shall be provided to the property owner and city within 30 days.

(Ord. No. 61F, § 2(2.8), 2-16-2005; Ord. No. 61G, § 2(2.8), 10-18-2006)

Sec. 74-30. - Failing septic systems.

As defined by Minnesota Rules § 7080.0020, subpt. 16b:

- (1) A failing ISTS shall be upgraded, replaced or its use discontinued within ten months. The building department will give consideration to weather conditions as it applies to compliance dates. A septic design by a certified septic professional must be submitted to the building department for review prior to any repair.
- (2) Any ISTS which poses an imminent threat to public health and safety shall be brought into compliance with this article within a period of 90 days. Discharge from the tank must be restricted immediately and regular pumping of the tanks by a MPCA licensed septic professional must be done to prevent the discharge of effluent until the repairs are made. A septic design by a certified septic professional must be submitted to the building department for review prior to any repair except for restriction of discharge.

(Ord. No. 61F, § 2(2.9), 2-16-2005; Ord. No. 61G, § 2(2.9), 10-18-2006)

Sec. 74-31. - License requirements.

No person shall engage in the evaluation, inspection, design, installation, construction, alteration, extension, repair, maintenance or pumping of on-site individual sewage treatment systems without first obtaining a license to perform such tasks from the MPCA.

(Ord. No. 61F, § 2(2.10), 2-16-2005; Ord. No. 61G, § 2(2.10), 10-18-2006)

Sec. 74-32. - Soil treatment area requirements.

All lots created after January 1, 1998, shall have a tested soil treatment area suitable for two standard systems as defined by Minnesota Rules ch. 7080. The area must be large enough to accommodate two systems of 5,000 square feet each, and must be so identified and protected from all construction traffic.

(Ord. No. 61F, § 2(2.11), 2-16-2005; Ord. No. 61G, § 2(2.11), 10-18-2006)

Sec. 74-33. - Holding tanks.

- (a) Holding tanks shall not be used as a sanitary system for new residential construction or for improvements greater than 50 percent of the assessed value of the structure at the time of the application for the improvement. Subsequent improvements shall count towards the 50 percent value limit for improvement.
- (b) Holding tanks shall only be used as a corrective action for sewage disposal for preexisting uses when a standard treatment system cannot be installed.
- (c) Undeveloped lots of record on which a holding tank is the only practical means of sewage disposal are unsuitable for residential use.
- (d) Holding tanks must have a visual or audio alarm for the prevention of overflow.

(Ord. No. 61F, § 2(2.12), 2-16-2005; Ord. No. 61G, § 2(2.12), 10-18-2006)

Sec. 74-34. - Standard systems.

- (a) Standard systems shall take priority for new construction and on upgrades where those systems

can be reasonably installed.

- (b) Standard systems shall be defined as systems constructed in unaltered soils and are drainfields, pressure beds, at-grades, and mounds.
- (c) Systems classified as other or performance shall meet the requirements of Minnesota Rules §§ 7080.0178 and 7080.0179.

(Ord. No. 61F, § 3, 2-16-2005; Ord. No. 61G, § 3, 10-18-2006)

Sec. 74-35. - Performance; other systems.

- (a) Performance/other septic systems are allowed as an option to homeowners. Performance/other systems will be subject to additional permitting and monitoring in pursuant with MPCA requirements and will include:
 - (1) Initial permit fee for a performance/other system will be based on the current fee for the type of system to be installed plus an additional amount to offset administrative costs.
 - (2) A mitigation plan must be submitted with the septic system design. The mitigation plan must indicate the procedure to be implemented if the system does not perform as designed.
 - (3) A water meter is required.
 - (4) Time dosing of the system is required.
 - (5) Monitoring and maintenance performed by a certified ISTS professional licensed by the MPCA.
 - (6) Separate wastewater treatment permit issued on a yearly basis for performance systems on condition of wastewater analysis.
 - (7) A yearly wastewater analysis, conducted by a certified laboratory, must be submitted at the time of permit renewal for a performance system.
 - (8) In the event the wastewater analysis indicates the system is not treating the wastewater as planned or the system fails: the mitigation plan must be implemented.
- (b) Performance systems will be required to submit the manufacturer's technical report regarding the effluent treatment procedure including a certified independent laboratory testing of the treated effluent.

(Ord. No. 61F, § 4, 2-16-2005; Ord. No. 61G, § 4, 10-18-2006)

Sec. 74-36. - Site evaluation and design requirements.

The following are site evaluation and design requirements for septic tanks:

- (1) Requirements of Minnesota Rules §§ 7080.0110 and 7080.0115 must be followed.
- (2) A minimum of two soil borings are to be conducted within the primary treatment area and one soil boring in the secondary treatment area.
- (3) The larger soil sizing factor must be used when there is a discrepancy between the soil texture and percolation test or a justification for a smaller sizing shall be submitted with the design

report.

- (4) Include the percent and direction of slope on site evaluations along with elevations of the trenches, corners of the pressure bed or rock bed of the mound.

Table 1. Septic Tank Requirements

Number of Bedrooms	Minimum Septic Tank Requirements
2 or less	1,250 gallons
3 or 4	1,500 gallons with 2 compartments or multiple tanks
5 or 6	2,000 gallons with 2 compartments or multiple tanks with equivalent liquid capacity
7 or more bedrooms	The septic tank shall be sized as an "other" establishment

Systems designed with aerobic tanks must be equipped with trash traps sized according to the manufacturer's recommendations.

Pressurized systems will be required to have a separate 1,000 gallon pump tank.

(Ord. No. 61F, § 5, 2-16-2005; Ord. No. 61G, § 5, 10-18-2006)

Sec. 74-37. - Construction and setback requirements.

- (a) The building sewer pipe extending from the house to the tank shall not be less than four inches in diameter and must meet the strength requirements of Schedule 40 plastic pipe. The pipe shall be supported in such manner so that there is no deflection during backfilling and subsequent settling of the soil between the building foundation and the inlet to the septic tank shall not affect the flow within the pipe.
- (b) Construction of the line shall provide a grade of not less than one-eighth inch per foot for minimum grades as recommended by the state pollution control agency. No 90-degree ells shall be permitted, and where the direction of the sewer is changed in excess of 22½ degrees accessible cleanouts shall be provided.
- (c) The sewer pipe extending from the tank to the distribution medium must meet the strength requirements of Schedule 40 plastic pipe. Sewer pipelines, manholes and other appurtenances shall be constructed in accordance with the state plumbing code and state pollution control agency requirements. The pipe shall be supported or sleeved in such manner so that there is no deflection during backfilling and subsequent settling of the soil shall not affect the flow within the pipe.
- (d) Setbacks from buildings, property lines and wells shall be in accordance with the requirements of Minnesota Rules chs. 7080 and 4725.

(Ord. No. 61F, § 6, 2-16-2005; Ord. No. 61G, § 6, 10-18-2006)

Sec. 74-38. - Septage disposal.

No person shall dispose of the contents of any septic tank, privy, or cesspool in any manner within the city without a site evaluation conducted by a certified septic professional and written permission from the department.

(Ord. No. 61F, § 7, 2-16-2005; Ord. No. 61G, § 7, 10-18-2006)

Sec. 74-39. - Maintenance.

- (a) The owner of an individual sewage treatment system or the owner's agent shall regularly, but in no case less frequently than every three years measure or remove the accumulations of scum, which includes grease and other floating materials at the top of each septic tank and compartment along with the sludge, which includes the solids denser than water.
- (b) Failure on the part of the property owner to have an on-site sewage disposal system cleaned when said system is found to require cleaning shall be cause for the city to provide for the cleaning service and provide the property owner with an advance notification of the date the system will be cleaned. The cost of this service shall be assessed to the property owner.

(Ord. No. 61G, § 8, 10-18-2006)

Sec. 74-40. - Prohibited systems.

Graveless pipe and warrantee systems are prohibited within the city.

(Ord. No. 61F, § 8, 2-16-2005; Ord. No. 61G, § 9, 10-18-2006)

Sec. 74-41. - Enforcement.

- (a) Any person who violates any of the provisions of this article or who makes any false statement on a certificate of compliance shall be guilty of a misdemeanor, punishable as provided in section 1-14
- (b) In the event of a violation of this article, in addition to the other remedies, the city attorney may institute appropriate actions or proceedings to prevent, restrain, correct or abate such violations.

(Ord. No. 61F, § 9, 2-16-2005; Ord. No. 61G, § 10, 10-18-2006)

Sec. 74-42. - Subject to change.

The requirements of this article are intended to be comparable to the environmental protection agency (EPA), Minnesota pollution control agency (MPCA), and the Minnesota department of health (MDH) standards. Should this article differ from other agency standards or should EPA, MPCA, or MDH standards change, the more strict standards shall apply. Any fee pertaining to this article may be changed by resolution of the city council.

(Ord. No. 61F, § 10, 2-16-2005; Ord. No. 61G, § 11, 10-18-2006)

Ordinance Chapter 74

ADOPTING CHAPTER 74 OF THE EAST BETHEL CITY CODE.

SEWAGE TREATMENT

(PROPOSED SEPTIC SYSTEM ORDINANCE FOR 2014)

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Section 74-19. Purpose and intent.

The purpose of the sewage and wastewater treatment and disposal standards shall be to provide minimum standards for and regulation of Subsurface Sewage Treatment Systems (~~SSTSSSTS~~) and septage disposal, including the proper location, design, construction, operation, maintenance and repair to protect surface water and groundwater from contamination by human sewage and waterborne household and commercial waste; to protect the public's health and safety, and eliminate or prevent the development of public nuisances pursuant to the authority granted under Minnesota Statutes 145A.05, 115.55 and Minnesota Rules chapter 7080 through 7083 as amended, that may pertain to sewage and wastewater treatment in the city.

Section 74-20. Applicability.

This article shall apply to those sites, properties or facilities which are licensed, permitted, or otherwise regulated by city ordinance, and/or located within the city.

Section 74-21. Authority.

The ordinance from which this article is derived is adopted pursuant to the authorization contained in Minn. Stats.145A.05, 115.55, and Minnesota Administrative Rules Chapter 7082.

Section 74-22. Administration.

This article shall be administered by the city building department. The term "department" where used in this article, means the city building department.

Section 74-23. Minnesota rules adopted.

Minnesota Administrative Rules Chapters 7080 through 7083, along with any future amendments relating to subsurface sewage treatment systems, are hereby adopted by reference and made a part of this ordinance as if fully set forth herein.

Section 74-24. System abandonment.

Septic tanks that are no longer intended to be used must be abandoned. Septic tanks must be pumped and removed, crushed, or filled in with sand. A septic system, or component thereof, that is no longer intended to be used must also be abandoned in accordance with Minnesota Rules chapter 7080.2500. The contractor must also fill out a Minnesota ~~SSTSSSTS~~ abandonment reporting form and submit a copy to the City.

Section 74-25. Enforcement.

- (1) Violation of any condition imposed by the city on a license, permit or variance, or any false statement shall be guilty of a misdemeanor, punishable as provided in section 1-14.
- (2) Work conducted without a permit or inspections shall be deemed an Imminent Public Health and Safety Threat and shall be discontinued within 24 hours. Any person performing ~~SSTSSSTS~~ work, or installed an ~~SSTSSSTS~~ without the required permit shall be guilty of a misdemeanor, punishable as provided in section 1-14.

Section 74-26. Permits.

- (1) No person shall install, alter, or extend any sewage treatment system in the city without first applying for and obtaining a permit from the building department and, at the same time, paying a fee as listed in the fee schedule determined by resolution by the city council. When all the requirements are met a permit will be issued. Such permit shall be valid for a period of 12 months from the date of issuance.
- (2) Work on a septic system shall only be performed by a Minnesota certified ~~SSTSSSTS~~ person with the appropriate business license. Any person performing work on a septic system without the required licenses or in violation of this ordinance is guilty of a misdemeanor, punishable as provided in section 1-14.
- (3) Permit fee shall be doubled for any work conducted without first obtaining a permit.
- (4) A full septic design meeting the requirements of Minnesota Chapter 7080 or Chapter 7081 must be submitted before a building permit for new construction is approved. The septic design and house plans must indicate the same number of bedrooms. In the event there is a discrepancy in the number of bedrooms, the building permit will not be issued until the discrepancy is resolved to the satisfaction of the building department.
- (5) Permit applications for new and replacement ~~SSTSSSTS~~ shall include a management plan for the owner that includes a schedule for septic tank maintenance.
- (6) When weather does not allow a full site evaluation to be completed, a design of the worst case scenario shall be submitted. Worst case scenario shall be a mound system, septic tanks and lift station. When weather permits, a full site evaluation and a new design may be submitted to the building department for review.

Section 74-27. Operating permit.

An operating permit shall be required of all owners of new holding tanks, type IV and V systems; MSTs and other ~~SSTSSSTS~~ that the Department has determined requires operational oversight. Application for an operating permit shall be made on a form provided by the Department or by the State. The owner of holding tanks installed after the effective date of this ordinance shall provide the Department with a copy of a contract with a licensed sewage maintenance business for monitoring and removal of holding tank contents.

Section 74-28. Treatment required.

All sewage generated, in unsewered areas shall be treated and dispersed by an approved ~~SSTSSSTS~~ or a system permitted by the Minnesota Pollution Control Agency.

Section 74-29. Soil treatment area.

For lots platted after April 1, 1996, a design shall locate space for two soil treatment areas. All lots ~~platted~~ ~~created~~ after January 1, 1998, shall have a tested soil treatment area suitable for two type I systems (standard systems) as defined by Minnesota Rules chapter 7080 and 7081. The area must be large enough to accommodate two systems. The area shall be at least 5,000 square feet for each system unless approved by the Building Official, and must be protected by fencing to keep construction traffic off.

Section 74-30. Type I systems (standard systems).

- (1) Type I systems shall take priority for new construction and on upgrades where those systems can be reasonably installed.
- (2) Type I systems shall be defined as systems constructed in unaltered soils and are trenches, pressure beds, at-grades, or mound systems.
- (3) Type I systems shall be designed according to Minnesota 7080.2200.

Section 74-31. Type II systems.

- (1) Floodplain areas MN 7080.2270.
- (2) Privies MN 7080.2280.
- (3) Holding tanks MN 7080.2290.

Section 74-32. Type III systems.

As defined in Minnesota Chapter 7080.2300.

Section 74-33. Type IV systems.

As defined in Minnesota Chapter 7080.2350. Type IV Systems shall be designed by a Minnesota SSTSSSTS certified intermediate designer (less than 2,500 gpd) or advanced designer.

Section 74-34. Type V Systems.

As defined in Minnesota Chapter 7080.2400. Type V Systems shall be designed by a Minnesota SSTSSSTS certified advanced designer with a licensed professional engineer.

Section 74-35. Inspections.

The permittee shall notify the city prior to the completion and covering of the subsurface sewage treatment system (SSTSSSTS). The installation and construction of the SSTSSSTS shall be in accordance with the permit requirements and the approved design. Inspections will be made during the construction of the SSTSSSTS to assure that the system has been constructed per approved design.

- (1) A test pit is required to verify the depth of redoximorphic features prior to the installation of the drainfield. The pit shall be provided by the contractor. The test pit must be wide enough to allow a safe environment for the inspector. The pit shall also be in a location approved by the inspector.
- (2) The inspector shall verify soil separation between the bottom of the drainfield and any restrictive layer, water table or redoximorphic features.
- (3) No part of the system shall be covered until it has been inspected and approved by the inspector, unless prior arrangements have been made.
- (4) Proposals to alter the permitted construction will require an amended design be submitted to the building department for review.
- (5) It shall be the responsibility of the property owner or authorized agent to schedule an inspection on the workday preceding the day inspection is desired.
- (6) The installer shall complete a signed as-built drawing indicating the location and setbacks of all tanks and soil treatment area. The location of the manhole covers on the septic tanks must be noted by measuring from two points of the structure to the center of the cover. As-built must be submitted to the city inspector at the time of inspection.
- (7) If proper notice is given and the inspector does not appear for an inspection within two hours after the time is set, the installer may complete the installation. The installer shall then file a signed as-built, including photographs of the system prior to covering, with the city within five working days. The as-built shall include a certified statement that the work was installed in accordance with the approved design and permit conditions, and that it was free from defects.
- (8) Upon satisfactory completion and final inspection of the system, the inspector shall issue a certificate of compliance. If upon inspection the inspector discovers that any part of the system is not constructed in accordance with the minimum standards provided in this article, the inspector shall give the applicant written notification describing the defects. The applicant shall be responsible for the correction or elimination of all defects, and no system shall be placed or replaced in service until all defects have been corrected or eliminated.

Section 74-36. Compliance.

No person shall cause or permit the location, construction, alteration, extension, conversion, operation, or maintenance of a subsurface sewage treatment system, except in full compliance with the provisions of this ordinance.

Section 74-37. Prohibited systems.

Graveless pipe, drip systems and warrantee systems are prohibited within the city.

Section 74-38. Conflict resolution.

Subsurface sewage treatment systems regulated under this ordinance, conflicts and other technical disputes over new construction, replacement, and existing systems will be reviewed by the Building Official. Soils conflicts will be resolved following 7082.0700 Subp.5.

Section 74-39. Operation guarantee.

Neither the issuance of a permit nor the inspection of a system shall constitute any warranty or guarantee of operation of the system.

Section 74-40. Minimum qualification.

Site evaluation, system design, installation, construction, alteration, extension, repair, inspection, and system pumping and servicing shall be performed by Minnesota Pollution Control Agency licensed SSTSSSTS businesses or qualified employees of this city. Any work performed on a septic system without the required licenses or permits is in violation of this ordinance and is guilty of a misdemeanor, punishable as provided in section 1-14.

Section 74-41. Site evaluation and design requirements.

The following are site evaluation and design requirements for septic systems:

- (1) Minnesota SSTSSSTS Rules must be followed.
- (2) At least one additional bedroom shall be added in the design of a septic system with an unfinished basement.
- (3) Minimum of three (3) soil borings are to be conducted within the primary treatment area, and one (1) soil borings in the secondary treatment area.
- (4) Minimum of one (1) percolation test is to be conducted within the primary treatment area. The percolation test shall be conducted near the center of the drainfield location.
- (5) The designer shall include the direction and percent of slope on site evaluation, along with elevation of the drainfield.
- (6) For vacant lots platted after April 1, 1996, a design shall locate space for a second soil treatment area.

Section 74-42. Minimum septic tank capacity for dwellings, and pump tank sizes, and other tank requirements.

- (1) Septic tank capacity for dwellings must be sized according to MPCA 7080.1930 Table V.
- (2) 4 or more bedrooms also require 2 compartments, or multiple tanks.
- (3) Pressurized systems require a separate 1,000 gallon pump tank.
- (4) The pump tank may be reduced in size by 50 percent if approved by the Building Official. Reduction in size will not be permitted due to financial reasons.

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Section 74-43. Sewer pipe.

The building sewer pipe extending from the house to the tank shall not be less than four inches in diameter and must meet the strength requirements of Schedule 40 plastic pipe, and no 90 degree ells shall be permitted. The pipe shall be supported or sleeved in such manner so that

there is no deflection during backfilling or settling of the soil. Schedule 40 plastic pipe is also required from the septic tank to another tank or to the distribution medium.

Section 74-44. Setback requirements.

Setback from buildings, property lines and wells shall be in accordance with the requirements of Minnesota Rules chapter 7080.2150.

Section 74-45. Setback reduction.

Setback from detached accessory buildings or garages with no basements, on the same property may be reduced by 50% if approved by the Building Official.

Section 74-46. Variances.

- (1) Variances for setback to a property line must be approved by the City Council.
- (2) Variances for holding tanks are required by the City Council except for the replacement of an existing holding tank.

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Section 74-47. Septic tank maintenance.

- (1) The owner of an individual sewage treatment system or the owner's agent shall regularly, but in no case less frequently than every three years measure or remove the accumulations of floating materials at the top of each septic tank, along with the sludge, which includes the solids denser than water. Whenever the top of the sludge layer is less than 12 inches below the bottom of the outlet baffle, or the bottom of the scum layer is less than 3 inches above the bottom of the outlet baffle, the owner or the owner's agent shall have the tank pumped. Pumping of the tank must be completed by a MPCA certified pumper.
- (2) Failure to have the septic tanks cleaned when the system is found to require cleaning shall be cause for the city to provide for the cleaning service, and provide the property owner with an advance notification of the date the system will be cleaned. The cost of this service shall be assessed to the property owner.

Section 74-48. Compliance inspection.

An ~~SSTSSSTS~~ compliance inspection is required:

- (1) For a new or replacement ~~SSTSSSTS~~.
- (2) Before the sale or property transfer within the city.
- (3) When adding a bedroom.
- (4) When a parcel having an existing system undergoes development, subdivision, or split.
- (5) In Shoreland Management Areas: When a building permit is required for building, remodeling, alterations, additions or a variance is received in a shoreland management area (any part of the property within the shoreland management area) between December 1st and May 1st the city may issue a permit or variance immediately with the requirement that a compliance inspection be completed by June 1st and the applicant submits a certificate of compliance within 15 days. If a system is deemed noncompliant and is not an imminent public health threat, a property owner has ten (10) months to bring the system into compliance. If the owner fails to get a compliance inspection on the septic system or to bring the system into compliance after the required ten (10) months after receiving notice of a failing system, the owner is in violation of city ordinance and is guilty of a misdemeanor and must bring the septic system into compliance. If the owner does not bring the septic system into compliance within the time required by code, a stop work order will be posted and no work or inspections for the building will be permitted until the septic system is brought into compliance.

- (6) If an existing system (constructed prior to April 1, 1996) is not an immediate public health threat, the tank is watertight and provides at least two (2) feet of soil separation, the system does not need to be upgraded, repaired or replaced or its use discontinued, as long as the system is not located in the shoreland area, wellhead protection areas (200 feet from any public water supply well, that is any well serving 25 persons or more for 60 days of the year) or serving as a food, beverage, or lodging establishment. The three (3) foot rule applies in those circumstances with the 15 percent reduction in separation permitted by this ordinance.
- (7) Certificates of compliance or notices of noncompliance shall be issued on the state pollution control agency's (MPCA) inspection form for existing septic systems. Copies shall be provided to the property owner and city within 15 days.

Section 74-49. Allowable reduction for existing systems.

Compliance Inspection; 15 Percent Vertical Separation Reduction. Minnesota Administrative Rules 7080.1500, subp. 4D is amended to allow 15 percent reduction of vertical separation (separation distance no less than 30.6 inches) may be determined to be compliant for existing systems to account for settling and variable interpretations. The 15 percent reduction is permitted on all septic system constructed after April 1, 1996.

Section 74-50. Failing septic systems and septic systems which pose an imminent public health threat.

- (1) A failing ~~SSTSSSTS~~ that is failing to protect groundwater shall be upgraded, replaced or its use discontinued within ten (10) months. The building department will give consideration to weather conditions as it applies to compliance dates. If the system is not upgraded or replaced within ten (10) months and can't be installed due to weather conditions, then money shall be placed in escrow until a new system can be installed or repairs can be made. A septic design by a certified septic professional must be submitted to the building department for review, and a permit issued prior to any repair, except for restriction of discharge.
- (2) Any ~~SSTSSSTS~~ which poses an imminent threat to public health and safety shall be brought into compliance with this article within a period of 90 days. Discharge from the tank must be restricted immediately and regular pumping of the tanks by a MPCA licensed septic professional must be done to prevent the discharge of effluent until the repairs are made. If the system is not upgraded or replaced within 90 days and can't be installed due to weather conditions, then money shall be placed in escrow until a new system can be installed or repairs can be made. A septic design by a certified septic professional must be submitted to the building department for review, and a permit issued prior to any repair, except for restriction of discharge.

Section 74-51. Escrow for a new or replacement septic system.

From December 1st through May 1st escrow for a new or replacement septic system may be held at 125% of the cost of a new septic system. At least two (2) septic system bids are required to determine the cost of a new or replacement system; the larger of the two bids must be used to determine the escrow amount.

Section 74-52. Change in use or condition of the system has changed or been altered.

A certificate of compliance may be voided if, subsequent to the issuance of the certificate, the use of the premises or condition of the system has changed or been altered.

Section 74-53. Holding tanks.

- (1) Holding tanks shall not be used as a sanitary system for new residential construction or for improvements greater than 50 percent of the assessed value of the structure at the time of the application for the improvement. Subsequent improvements shall count towards the 50 percent value limit for improvement.
- (2) Holding tanks shall only be used as a corrective action for sewage disposal for preexisting uses when a standard treatment system or other systems cannot be installed.
- (3) Holding tanks must have a visual or audio alarm for the prevention of overflow.
- (4) The homeowner of a holding tank shall provide the building department a copy of a contract with a licensed sewage maintenance business for monitoring and removal of the holding tank contents.

Section 74-54. Floodplain.

An ~~SSTSSSTS~~ shall not be located in a floodway or floodplain. The location within the flood fringe is permitted, provided that the design complies with this ordinance and all rules and statutes.

Section 74-55. Class V injection wells.

All owners of new or replacement ~~SSTSSSTS~~ that are considered to be Class V injection wells, as defined in the Code of Federal Regulations, title 40, part 144, are required by the Federal Government to submit ~~SSTSSSTS~~ inventory information to the Environmental Protection Agency.

Section 74-56. Septage disposal.

No person shall dispose the contents of any septic tank, privy, or cesspool in any manner within the city without a site evaluation conducted by a City inspector and written permission from the department.

Section 74-57. Prohibit surface discharge.

Surface discharge of sewage from ~~SSTSSSTS~~ is prohibited. Unless issued a national pollution discharge elimination system permit by the MPCA.

Section 74-58. Subject to change.

The requirements of this article are intended to be comparable to the environmental protection agency (EPA), Minnesota pollution control agency (MPCA), and the Minnesota department of health (MDH) standards. Should this article differ from other agency standards or should EPA, MPCA, or MDH standards change, the more strict standards shall apply. Any fee pertaining to this article may be changed by resolution of the city council.

Section 74-59. Misdemeanor.

Any person who fails to comply with the provisions of this ordinance may be charged with a misdemeanor and upon conviction thereof, shall be punished therefore as provided [in Section 1-14 of the City Code](#). ~~by law~~. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

Section 74-60. Injunctive relief.

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In the event of a violation or a threat of violation of this ordinance, the department may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations or threatened violations; and the City Attorney may institute a civil action.

Section 74-61. Civil action.

In the event of a violation of this ordinance, the City may institute appropriate actions or proceedings to include injunctive relief to prevent, restrain, correct, or abate such violations, or threatened violations, and the City Attorney may institute such action.

Section 74-62. Effective date.

This ordinance shall be effective immediately upon passage by the City Council.

Section 74-63. Reserved.

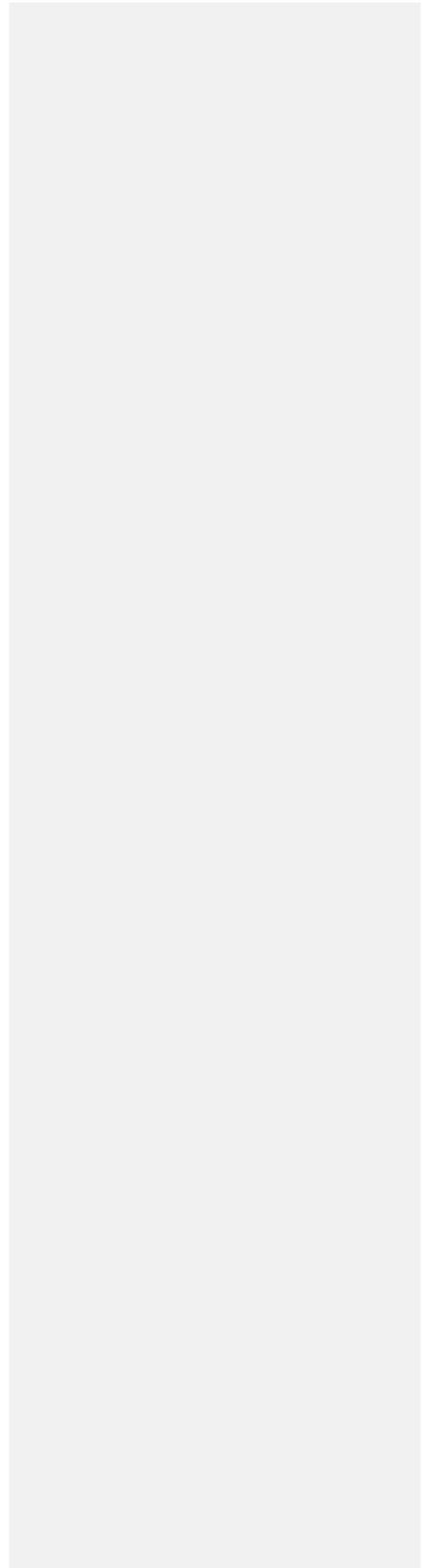
Section 74-64. Reserved.

Section 74-65. Reserved.

Section 74-66. Reserved.

Section 74-67. Reserved.

Section 74-68. Reserved.





Differences between 2013 and 2014 Septic System Ordinances

City Septic System Ordinance 2013	City Septic System Ordinance 2014
Adopted SSTS Rules by Reference	<u>Adopted Administrative Rules Chapters 7080 through 7083, along with future amendments to SSTS and are hereby adopted by reference.</u>
Designs: Site Evaluations: A minimum of two borings are to be conducted within the primary treatment area.	<u>74-41 Designs: Minimum of three (3) soil borings are to be conducted within the primary treatment area, and one in the secondary area. One (1) percolations test is to be conducted within the primary area, near the center of the center of the drainfield. The designer shall include the direction and slope on site elevation as well as the elevation of the drainfield.</u>
Operating Permits: No issuance of a permit or inspection shall guarantee any warranty or guarantee of operation of the system.	<u>74-27 Operating Permits: An operating permit shall be required of all owners' operation of new holding tanks, type IV and V systems or MSTs and other SSTS systems that the Department has determined requires an operational permit. The owner of Holding tanks installed after the effective of this ordinance shall provide Department with a copy of a contract with a sewage maintenance provider.</u>
Setback Reductions: No setback reductions from adopted Minnesota SSTS Rules	<u>74-45 Setback Reductions: Setbacks from detached accessory buildings or garages with no basements, on the same property may be reduced by 50% if approved by the Building Official.</u>
Septic Tank Sizing: Sec 74-36 Table 1, two compartment or multiple tanks required for three (3) or more bedroom home.	<u>74-42 Septic Tank capacity for dwellings must be sized according to MPCA 7080.1930 Table V. Four (4) or more bedrooms also require two (2) compartments, or multiple tanks. Pressurized systems required a separate 1000 gallon pump tank.</u>
Holding Tanks: Minnesota SSTS Rules 7080	<u>74-53 Holding tanks shall not be used as a sanitary system for new residential construction or for improvements greater than 50% of the assessed value. The homeowner of a holding tank(s) shall provide the building department a copy of a contract with a service provider to monitor and pump the tank(s).</u>

<p>System Abandonment: Follow Minnesota Rules chapter 7080</p>	<p><u>74-24 Septic tanks that will no longer be in use must be pumped, crushed and abandoned in accordance with Minnesota Rules chapter 7080. The contractor must also fill out a Minnesota SSTS abandonment form and submit it to the City of East Bethel.</u></p>
<p>Prohibited Installations: Graveless pipe and warrantee systems.</p>	<p><u>74-37 Prohibited Installations: Graveless pipe, drip systems and warrantee systems.</u></p>
<p>Existing Systems: Completed on lots within the Shoreland Overlay District.</p>	<p><u>74-48 Certificate of Compliance: All lots in the City of East Bethel require a Certificate of Compliance. Before the sale or property transfer.</u></p>
<p>Certificate of Compliance: Allowable reduction to Seasonally Saturated Soil (mottled soil): None</p>	<p><u>74-49 Certificate of Compliance, Allowable reduction to Seasonally Saturated Soil (redoximorphic features) 15% or no less than 30.6 inches. The reduction is permitted for all systems constructed after April 1, 1996.</u></p>
<p>Failing Systems: Any system posing an Imminent Threat to Public Health shall be brought into compliance within 90 days.</p>	<p><u>74-50 Failing Systems: If the System cannot be upgraded or repaired due to weather conditions, money will be placed in escrow until the new system can be installed or repairs made.</u></p>
<p>Escrows: Not found in City Ordinance</p>	<p><u>74-51 Escrows: From November 1st to May 1st escrow for a new or replacement septic system may be held at 125% of the cost of a new system. At least two septic bids are required to determine the cost of a new or replacement system. The larger of the two bids must be used to determine the escrow amount.</u></p>
<p>Injunctive Relief: Not found in City Ordinance</p>	<p><u>74-60 Injunctive Relief: In the event of a violation or threat of violation, the department may institute actions or proceedings to include injunctive relief to prevent, restrain, correct or abate such violations or threatened violations. The City Attorney may institute a civil action.</u></p>
<p>Misdemeanor: Not found in City Ordinance</p>	<p><u>74-59 Misdemeanor: Any person who fails to comply with the provisions of this ordinance may be charged with a misdemeanor. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.</u></p>



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

Item 8.0 A.2

Agenda Item:

Classic Commercial Park 3rd Addition – Developer’s Agreement

Background Information:

As part of the subdivision process, the City is required to enter into a Developer’s Agreement outlining improvements, warranties, and other obligations of the Developer. The Developer’s Agreement for Classic Commercial Park 3rd Addition is attached for your review. This agreement was written by the City Attorney based on Planning and Engineer Staff recommendations and has been accepted by the developer.

Attachments:

- 1. Developer’s Agreement

Recommendations:

Staff requests that Council consider the approval of the Developer’s Agreement for Classic Commercial Park 3rd Addition.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

**CITY OF EAST BETHEL
ANOKA COUNTY, MINNESOTA
DEVELOPER'S AGREEMENT**

THIS AGREEMENT, made and entered into this ____ day of _____, **2014**, by and between the City of East Bethel, a municipal corporation under the laws of the State of Minnesota (the "City"), CD Properties North, LLC, (the "Developer").

WITNESSETH; That:

WHEREAS, the Developer has made application to the City Council for approval of a plat of land and site plan within the corporate limits of the City described as follows:

Classic Commercial Park 3rd Addition
See Attached Exhibit A

(the "Subdivision"); and,

WHEREAS, the City Council has on _____ 2014, granted concept approval to the Subdivision, on the condition that the Developer enter into this Agreement stipulating the conditions for the installation of street, water, sewer and other public improvements as well as the development of on-site improvements hereinafter described, all in accordance with the terms and conditions hereinafter set forth.

WHEREAS, the City Council has on _____ 2014, granted preliminary and final approval to the Subdivision, on the condition that the Developer enter into this Agreement stipulating the conditions for the installation of street, water, sewer and other public improvements as well as the development of on-site improvements hereinafter described, all in accordance with the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and of the mutual promises and conditions hereinafter contained, it is hereby agreed as follows:

Designation of Improvements: Improvements to be installed for the site to be occupied by Aggressive Hydraulics, Inc., at Developer's expense by the Developer on Lot 1, Block 2 as hereinafter provided are hereinafter referred to as "Plan A Improvements". Improvements to be installed by the Developer and paid for by Developer relative to ultimately publicly owned improvements are hereinafter referred to as "Plan B Improvements".

1. **PLAN A IMPROVEMENTS:** The Developer will construct at Developer's expense the following improvements under Plan A according to the following terms and conditions:
 - A. The Developer shall do all site grading, storm water, landscaping, sewer, surface drainage ways, sewer and water service connections, parking improvements, street improvements and storm water ponds and all private

driveways including seeding of boulevards. Any changes to the approved plans during construction shall be submitted to the City for approval. Each building site must conform to the grading plan approved by the Building Inspector of the City prior to a building permit being issued.

- B. The Developer shall control soil erosion ensuring:
 - 1. All development shall conform to the natural limitations presented by the topography and soil of the subdivision in order to create the best potential for preventing soil erosion.
 - 2. Erosion and siltation control measures shall be coordinated with the different stages of development. Appropriate control measures as required by the City Engineer shall be installed prior to development and as may be necessary to control erosion.
 - 3. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any one period of time.
 - 4. Where the topsoil is removed, sufficient arable soil shall be set aside for resspreading over the developed area. The topsoil shall be restored to a depth of at least four (4) inches and shall meet the requirements of the city of East Bethel engineering manual.
 - 5. The Developer shall not locate its equipment within the right-of-way of Ulysses or Buchannan Streets as acquired by the City of East Bethel adjacent to this development without the express written consent of the City Engineer.
- C. The Developer shall place iron monuments at all lot and block corners and at all other angle points on boundary lines. Iron monuments shall be replaced after all streets and final grading has been completed in order to preserve the lot markers.
- D. The Developer shall be responsible for maintaining the location of and protecting curb stops, water services and sewer services. Any service or curb stop damaged shall be repaired or replaced as specified by the City. The Developer shall make all necessary adjustments to the curb stops to bring them flush with the topsoil (after grading) or pavement surface.
- E. The Developer shall be required to provide landscaping and screening as determined by the City and as required by the landscaping Plan. Final

landscaping plans must be submitted to the office of the City Planner for approval.

- F. The Developer shall be responsible for street maintenance, including curbs, boulevards, sod and street sweeping until the project is complete. All streets shall be maintained free of debris and soil until the subdivision site work is completed. Warning signs shall be placed when hazards develop in streets to prevent the public from traveling on same and directing attention to detours. The repair of any damage done to the streets or public utilities by Developer or any of its Contractors or Subcontractors shall remain the financial responsibility of the Developer.
- G. The Developer shall furnish site lighting in accordance with the approved lighting plan.

General Requirements:

- H. Park Dedication. There is no park dedication due from this development as it was previously paid with the preceding development.
- I. The Developer shall dedicate and survey all drainage and storm water holding ponds as required by the City and to be shown on the final plat. The Developer shall be responsible for storm sewer cleaning and holding pond dredging, as required, by the City prior to completion of the development.

The City is requiring Developer to dedicate or convey by easement additional right of way for 187th lane and Buchanan St to establish a 300 foot radius at the intersection. Developer shall dedicate that within the plat or convey it by easement contemporaneously with the execution of this Developer's Agreement. Storm water ponding was acquired from the previous development and was sized to accommodate this property.

- J. The Developer shall be responsible for securing all necessary approvals, PUDs, CUPs and permits from all appropriate federal, state, regional and local jurisdictions prior to the commencement of site grading or construction and prior to the City awarding construction contracts for public utilities.
- K. Drainage and Utility Easements. 10 foot minimum drainage and utility easements shall be provided along all lot lines in Classic Commercial Park 2nd Addition.
- L. Wetland Designation. All areas classified as wetlands shall be displayed upon the plat and those so specified by the City Engineer shall be dedicated

to the public for that purpose.

- M. Warranty of Title. By its execution hereof Developer hereby warrants and represents that it has the exclusive and marketable fee title to the subject property. Developer further warrants and represents that there are no liens or encumbrances against the title and that it is fully authorized to execute this agreement as the fee owner of the subject lands.
- N. Utility Locations in City Right of Way. In order to maintain compliance with regulations promulgated from the Minnesota Office of Pipeline Safety the developer, its contractors, subcontractors, and agents shall comply with the following requirements:
1. All right of way work shall require an application with a plan that shall be submitted for City review prior to any work performed in the right of way areas.
 2. The layout of utilities, including depths, off-sets and materials shall be documented during construction and confirmed with city staff during the installation process.
 3. Single family residential lots are required to submit an accurate tie card showing the utilities installed and measurements from fixed objects (corner of house, fire hydrants, etc.) to the curb stop, location pins, clean outs and tie in points for all utilities.
 4. Multi-family and commercial lots must provide, in addition to the above, professional as built drawings confirmed by field survey, showing the required information. In addition Engineering grade GPS coordinates in the Anoka County coordinate system shall be supplied by the builder. These will allow the coordinates to be electronically incorporated into future city mapping.
 5. All installations will require pins be installed directly above all utility lines where they cross lot lines. A corrosion protected trace wire shall be installed six inches below final grade directly above all new utility installations at a minimum through the right of way. The trace wire and tail shall be terminated in a capped vertical conduit that is within two inches of the final grade and pin located at the lot line.
 6. The Developer shall hold harmless and indemnify the “City” from any and all loss or damage resulting from its failure to comply with these requirements including but not limited to expenses the City incurs in correcting errors in information provided by Developer its agents or contractors or remediating problems resulting there from in the right of way.
 7. Upon failure to provide full documentation as required the City shall notify the Developer who shall have 30 days to secure full

compliance. Failure to comply will result in the work being assigned by the City to an outside professional for completion of the necessary work. Any costs incurred in resolving these requirements shall be assessed to the property or offset from security required under this agreement.

- 8. City staff shall document the time and materials required to review, confirm and accept the installation documentation and shall invoice Developer for the costs based on the actual work involved or on a fee schedule adopted by the City Council.

- O. **Underground Installation of Electrical Distribution Lines.** Pursuant to City ordinance Chapter 1008 all electrical distribution lines located or to be located upon the site shall be installed and maintained underground.

2. **DESCRIPTION OF PLAN A IMPROVEMENTS : ESCROWED ITEMS**

1.	Landscaping	TBD
2.	Erosion Control	TBD
TOTAL ESTIMATED CONSTRUCTION COST		
	OF PLAN A IMPROVEMENTS: Escrow	\$ TBD
	SECURITY REQUIREMENT (25%)	\$ TBD
	TOTAL PLAN A CASH ESCROW	\$ TBD

Any Plan A escrows will be calculated and collected prior to the issuance of any building or earth disturbance permits for this property.

3. **CONSTRUCTION OF PLAN A IMPROVEMENTS.**

- A. Construction. The construction, installation, materials and equipment shall be in accordance with the approved plans.

- B. Inspection. All of the work shall be under and subject to the inspection and approval of the City and, where appropriate, any other governmental agency having jurisdiction.

- C. Security-Letter of Credit. The Developer shall supply a cash escrow or one or more Standby Letter(s) of Credit from a Bank, on a form to be approved by the City Attorney, to secure the performance of the Plan A improvements

as outlined above. If used the form of the Letter of Credit shall substantially be as outlined in the attachment hereto (Exhibit Plan A Security)

4. **PLAN B IMPROVEMENTS.** The following improvements will be installed for the final ownership of the City at the Developer's expense under supervision of the City according to the following terms and conditions:

1.	<u>DESCRIPTION OF IMPROVEMENT</u>	<u>ESTIMATED COST</u>
	A. Grading and Ponding	\$ TBD
	B. Water Main Connection	\$TBD
	C. Sanitary Sewer Extension	\$TBD
	C. Street and Storm sewer	\$ TBD
	D. Traffic Control	\$ TBD
	TOTAL ESTIMATED CONSTRUCTION COST OF PLAN B IMPROVEMENTS:	\$ _____
	SECURITY REQUIREMENT	\$ _____
	TOTAL PLAN B ESCROW	\$ TBD

Any Plan B escrows will be calculated and collected prior to the issuance of any building or earth disturbance permits for this property.

2. That prior to the Developer ordering the installation and awarding the contracts as it relates to the Plan B improvements and the costs therefore, the Developer shall deposit with the City, the total estimated cost of the Plan B improvements plus a 50% security requirement related thereto for a total of **\$TBD** in the form of a cash escrow or an Irrevocable Standby Letter of Credit.
- A. Escrow. No work shall be commenced under this Agreement until the Developer shall have filed with the City a cash escrow or Letter of Credit (in a form to be approved by the City Attorney) in the amount equal to the total estimated cost of the Plan B improvements plus a security requirement of 25% in the total amount of \$TBD.

The City shall have the right to apply against the Letter of Credit all bills incurred by the City with regard to the Plan B improvements, however, the City shall provide the Developer the opportunity to pay for said improvements as bills are incurred, in cash, rather than applying payments as against the Letter of Credit provided to the City, if a Letter of Credit is used in lieu of a cash escrow by the Developer. In such case, the Developer shall have 10 business days from the time of submission of the bill by the City to the Developer to pay to the City such amount in cash so that the City can use the payment to pay the amount due in lieu of drawing down on the Letter of Credit or other escrow on file with the City of East Bethel.

- B. Plans and Specifications. The approved plans identified below shall be made part of any contract authorized by Developer for the construction of the Plan A and B improvements. Those plans and specifications approved by the city engineer shall be constructed in accordance with the following requirements and approved plans:

- C. Easements. The Developers shall dedicate to the City, upon approval of the final plat, at no cost to the City, all permanent or temporary easements necessary for the construction and installation of the Plan A and Plan B Improvements, extension of water and sewer utilities and road rights of way as determined by the City. All such easements, acquired by the City, shall be in writing, and in recordable form, containing such terms and conditions as the City shall determine. If within the platted area, all such easements shall be dedicated to the City and specifically described within the Plat. As it affects all easements located outside the platted area, the same shall be dedicated by separate easement conveyed to the City prior to the execution of the Development Agreement. Easements that shall be recorded by separate document at the time of final plat recording include pond access easements and temporary cul-de-sac easements.

- D. Faithful Performance of Construction Contracts. The Developer will fully and faithfully comply with all terms and conditions of any and all contracts entered into by the Developer for the installation and construction of all Plan A & B Improvements and hereby guarantees the workmanship and materials for a period of two year following the City's final acceptance of the Plan B Improvements. Concurrently with the execution of this Agreement, Developer or its general contractor shall provide a Letter of Credit to the City in a form to be approved by the City Attorney, guaranteeing the performance by Developer of the construction of the Plan B

Improvements in a timely and proper manner. Additionally, Developer guarantees and agrees that, should the City need to apply a claim on said Letter of Credit, that Developer shall pay all attorney's fees and administrative expenses associated with said action.

- E. Ownership of Plan B Improvements. Upon final written approval of the City all such improvements as constructed shall become the property of the City. The Developer shall dedicate to the City, prior to approval of the final plat and at no cost to the City, all permanent and temporary easements necessary for the construction of such improvements as determined by the City.
- F. Contracts. All such construction contracts as awarded by the City to construct the Plan B improvements shall provide for a guarantee of the workmanship and materials for a period of two years following the completion of construction of the Plan B improvements. All such contracts shall also conform to the ordinances and specifications of the City in the construction of all Plan B improvements.
- G. Change Orders. No change order increasing the contract expense shall be authorized by the City without first notifying Developer of the change.
- H. Estimates. The above estimates are engineering projections only. Developer shall be responsible for all actual expenses incurred in the securing and installing of all Plan B improvements. The method of calculation of such costs shall be as specified by the City Engineer.
- I. Connection Charges. All connection charges and ERU fees shall be paid by Developer. The City Engineer shall compute the connection/ERU fee as prescribed by ordinance/resolution as to this development and advise the City Clerk as to the appropriate fee to be collected. Connection fees for all lots and blocks are due and payable upon application for a building permit. All connection fees are predicated upon area and use of buildings. Any changes in building size, additions or increased use may necessitate a revision to the connection fees as such time as subsequent building permits are applied for

The City reserves the right to modify or adjust the manner of computation of connection fees from time to time which may adjust or increase the connection fees on the outlots at such time as they become due.

5. CASH ESCROW ACCOUNT. The Developer has provided a cash escrow account to the City in the amount of **\$TBD** to reimburse the City for previous billed expenses relating to this development.

6. GENERAL:

A. Binding Effect. The terms and provisions hereof shall be binding upon and inure to the benefit of the heirs, representatives, successors and assigns of the parties hereto and shall be binding upon all future owners of all or any part of the Subdivision and shall be deemed covenants running with the land. References herein to “Developer”, if there be more than one, shall mean each and all of them. The Agreement, at the option of the City, shall be placed on record so as to give notice hereof to subsequent purchasers and encumbrances of all or any part of the Subdivision and all recording fees, if any, shall be paid by the Developer.

B. Final Plat Approval. The City has given final approval to the plat of the Subdivision Classic Commercial Park 3rd Addition upon execution and delivery of this Agreement and the other Council imposed conditions, all required documents and security, subject to compliance with the Ordinances of the City and terms and provisions hereof, permits may be issued by the City.

C. Incorporation of Reference. All plans, special provisions, proposals, specifications and contracts for the improvements furnished and let pursuant to this Agreement shall be and hereby are made a part of this Agreement by reference as fully as if set out herein in full. Specifically the following Planning Reports and Engineering files and final documentation approved by the City Planner and the City Engineer are specifically incorporated by reference herein and included herein as if originally made part of this agreement.

1.Planning Commission meeting 8/26/14, Item 3.0
Staff report, documents

1.Planning Commission meeting 8/26/14 meeting
minutes

2.City Council meeting 9/3/14, Item 7.0 Staff Report,
documents

3.City Council meeting 9/3/14 meeting minutes

4.City Council meeting 10/1/14, Item 8.0 Staff Report,
documents

5.City Council meeting 10/1/14 meeting minutes

- 6. City Council meeting 11/5/14 Staff Report, documents
- 7. City Council meeting 11/5/14 meeting minutes

- D. Recording of Developer's Agreement. The City shall file the Developer's Agreement of record in the office of the County Recorder. Providing that the Developer is not in default under the terms of the Development Agreement, the City shall provide appropriate releases of the financial aspects of same and provide documentation of individual buyers of lots.
- E. Administrative and Miscellaneous Expenses. As to any and all administrative, legal or engineering costs which the Developer is expected to pay to the City, which costs may be offset against the Letter of Credit which the Developer has filed and provided to the City, the Developer shall be given the opportunity to review and comment on such costs prior to the application by the City to the bonding company for the payment of same. Should the Developer dispute the reasonableness of any of the City's charges, Developer shall have the right to submit any such dispute to arbitration at Developer's sole and exclusive expense. Arbitration shall be conducted by the American Arbitration Association and shall be initiated and paid for by Developer.
- F. Establishment of Construction Schedules. The City Engineer shall establish construction schedules for Plan B improvements and shall consult with Developer prior to establishing same.
- G. Zoning. Classic Commercial Park 3rd Addition has been designated a zoning classification of B-3 Highway Commercial District by the City Council. All future use and development shall comply with the applicable provisions of the relevant zoning ordinance of the City relating thereto. Re-Zoning to I-1 is pending.
- H. Street Grades. The grades of all streets shall not exceed 8% and the minimum grade shall not be less than .6%.
- I. Lighting. Developers must submit a lighting plan to the City Planner. A photo-metric lighting plan shall be submitted and subject to review and specific approval of City Staff and City Council prior to issuance of a building permit.

- J. Indemnification. To the fullest extent permitted by law, the Developers shall indemnify and hold harmless the City, its agents and employees from and against any and all claims, damages, losses or expenses, including but not limited to attorney's fees, arising out of the issuance of this Developer's Agreement by the City and/or arising out of the performance or non-performance of its obligations hereunder by Developer.
- K. Outlot A. There shall be no development on Outlot A nor building permits issued therefor until the same is re-platted.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

In the presence of:

CD Properties North, LLC

Its _____

Its _____

STATE OF MINNESOTA)
) ss.
COUNTY OF ANOKA)

On this ____ day of _____, 2014, before me a Notary Public, within and for said County personally appeared _____ and _____, to me personally known, being each by me duly sworn did say that they are respectively the _____ and _____ of **CD Properties North, LLC** a Minnesota Limited Liability Company, named in the foregoing instrument; and that the seal affixed to said instrument is the seal of said Limited Liability Company, and that said instrument was signed and sealed on behalf of said company by authority of its Board of Governors and said _____ and _____ acknowledged said instrument to be the free act and deed of said Company.

Notary Public

THIS INSTRUMENT WAS DRAFTED BY:

Mark J. Vierling, Esq.
Eckberg, Lammers, Briggs, Wolff
& Vierling, P.L.L.P.
1809 Northwestern Avenue
Stillwater, MN 55082
(651) 439-2878

**LEGAL DESCRIPTION
EXHIBIT A**

Classic Commercial 3rd Addition

**EXHIBIT
LETTER OF CREDIT FORMAT
PLAN A AND B SECURITY**

Letter of Credit Requirements

Letters of Credit (LOC) being provided must meet the following criteria.

1. The attached sample form is preferred by the City. Variations from this sample may cause delay in the acceptance of the LOC by the City. Delay in acceptance may cause a delay in the approval process for your project.

2. The LOC must be drawn on a bank. The LOC is preferred to be from a bank in the seven (7) county metro area. LOCs on a bank outside the metro area must include a provision allowing for drawing on the LOC without presenting, or sending the original LOC. LOCs for less than \$ 25,000 must also include a provision allowing for drawing on the LOC without presenting, or sending the original LOC. If a LOC is drawn on it will be returned to the originating bank after funds are received.

3. The bank must submit a copy of their latest call report along with the LOC.

4. The bank the LOC is drawn on should have assets of at least \$25 million.

5. The LOC must be for a minimum term of one (1) year.

6. The LOC must contain a provision allowing for drawing on the LOC if it is not renewed, or replaced, by sixty (60) days prior to its maturity.

7. The LOC and any financial information must be received by the City not less than seven (7) days prior to the City Council taking action on the request.

8. The City reserves the right to request additional financial information it deems appropriate from the bank providing the LOC. The City reserves the right to now accept a particular LOC.

9. Letters of Credit will not be accepted from a related company, i.e., parent company, subsidiary, if the builder/developer is a subsidiary company the LOC cannot come from another wholly owned subsidiary of that parent company. Builders/developers submitting LOCs from non-bank institutions will be required to submit a letter from the institution

confirming that it is not related to the builder/developer.

10. Questions concerning the requirements outlined or the format required should be directed to Mark J. Vierling, 1809 Northwestern Ave., Stillwater MN 55082, telephone: 651-439-2878.

SAMPLE

BANK LETTERHEAD

Date

Irrevocable Letter of Credit No. _____

To: City of East Bethel
City Administrator
2241 - 221st Avenue NE
East Bethel, Minnesota 55011

Gentlemen:

We hereby establish in favor of the City of East Bethel this Irrevocable Letter of Credit Number _____ for the account of (name and address of developer) for (name of development/ project) in an aggregate amount of (amount of the letter of credit).

This LETTER OF CREDIT shall be deemed automatically renewed without modification for one (1) from (one year after date of letter of credit) or any extended expiration date unless sixty (60) days or more prior to such date we shall notify you by registered or certified mail that we elect not to extend this LETTER OF CREDIT for any such additional period.

Partial drawings permitted.

Each draft under this Letter of Credit must:

1. Be signed on behalf of the City;
2. Bear on its face the clause "drawn under (name of the bank) Letter of Credit Number _____ dated _____"; and
3. Be accompanied by a certification signed on behalf of the City of East Bethel that either (i) (name of developer) has failed to comply with the terms of the grading permit, or (ii) (name of developer) has failed to comply with the terms of the grading permit, or (iii) this Letter of Credit will expire within sixty (60) days and this Letter of Credit has not been renewed or replaces as required.

The original of the Letter of Credit is NOT required to be presented to draw upon this Letter of Credit.

We hereby engage with drawers and/or bona fide holders that drafts drawn and negotiated in

conformity with the terms of the credit will be duly honored upon presentation.

Except as otherwise state herein, this Letter of Credit shall be governed by the most recent version of the Uniform Customs and Practice for Documentary Credits (1983 Revision*), International Chamber of Commerce Publication No. 400.

Bank Name

By: _____
Name and Title of appropriate bank officer

- Must be most recent version.



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

Item 8.0 A.3

Agenda Item:

Classic Commercial Park 3rd Addition Final Plat Addendum

Background Information:

The City Council approved the Final Plat of the Classic Commercial Park, 3rd Addition at the October 1, 2014 City Council Meeting. Staff is now requesting that the City Council approve the right of way designation for a future street extension of Buchanan Street, utilizing a 300 foot center line radius and dedicating a 40 foot wide right of way, north of the centerline of Buchanan Street, for Classic Commercial Park 3rd Addition. The reason for this change is to accommodate future street improvements that would be eligible for MSA funds. MSA projects normally require the 300 foot center line radius to meet their design requirements. To supplement this information, the preliminary plat has also been updated for your reference and also includes the area of right of way dedication. The Developer is aware that the proposed building and parking must be revised and moved north to accommodate the right of way dedication. It is the policy of the City, where possible, to obtain easements on execution of the Developer's Agreement or dedicated as part of the plat as it's less complicated to secure them at this stage of the project.

This is a continuation of the platting of vacant property in the Classic Commercial Park. There have been no changes as result of comments for the preliminary and final plat and CD Properties North, LLC is requesting the amended final plat approval.

Attachments:

1. Final Plat
2. Preliminary Plat- Right of Way Area Delineation

Recommendations:

Staff requests that Council consider the approval of the right of way for Buchanan Street as dedicated on the revised final plat for the Classic Commercial Park 3rd Addition.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

CLASSIC COMMERCIAL PARK 3RD ADDITION

**City of East Bethel
County of Anoka
SEC. 32, TWP. 33, RNG. 23**

KNOW ALL PERSONS BY THESE PRESENTS: That CD Properties North, LLC, a Minnesota limited liability company, owner of the following described property:

OUTLOT A, CLASSIC COMMERCIAL PARK 2ND ADDITION, Anoka County, Minnesota.

Have caused the same to be surveyed and plotted as CLASSIC COMMERCIAL PARK 3RD ADDITION and do hereby dedicate to the public for public use the public ways and drainage and utility easements as shown on this plat.

CD PROPERTIES NORTH, LLC

In witness whereof said CD Properties North, LLC, a Minnesota limited liability company, has caused these presents to be signed by its proper officer this ____ day of _____, 20____ as _____

STATE OF MINNESOTA

COUNTY OF _____

This instrument was acknowledged before me this ____ day of _____, 20____ by _____ of CD Properties North, LLC, a Minnesota limited liability company, _____ as _____

Notary Public: _____ County, Minnesota
My Commission Expires: _____

I, Jason E. Rud do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.

Dated this ____ day of _____, 20____

Jason E. Rud, Licensed Land Surveyor
Minnesota License No. 41578

STATE OF MINNESOTA

COUNTY OF _____

This instrument was acknowledged before me this ____ day of _____, 20____ by Jason E. Rud.

Notary Public: _____ County, Minnesota
My Commission Expires: _____

CITY COUNCIL, CITY OF EAST BETHEL, MINNESOTA

This plat of CLASSIC COMMERCIAL PARK 3RD ADDITION was approved and accepted by the City Council of the City of East Bethel, Minnesota at a regular meeting thereof held this ____ day of _____, 20____ and said plat is in compliance with the provisions of Minnesota Statutes, Section 505.03, Subd. 2.

City Council, City of East Bethel, Minnesota

By _____ Mayor By _____ Clerk

COUNTY SURVEYOR

I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd 11, this plat has been reviewed and approved this ____ day of _____, 20____

Larry D. Holm
Anoka County Surveyor

COUNTY AUDITOR/TREASURER

Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, taxes payable in the year 20____ on the land herebefore described have been paid. Also, pursuant to Minnesota Statutes, Section 272.12, there are no delinquent taxes and transfer entered this ____ day of _____, 20____

Property Tax Administrator

By _____ Deputy

COUNTY RECORDER/REGISTRAR OF TITLES
COUNTY OF ANOKA, STATE OF MINNESOTA

I hereby certify that this plat of CLASSIC COMMERCIAL PARK 3RD ADDITION was filed in the office of the County Recorder/Registrar of Titles for public record on this ____ day of _____, 20____ at _____ o'clock ____ M. and was duly recorded in Book ____ Page ____ as Document No. _____

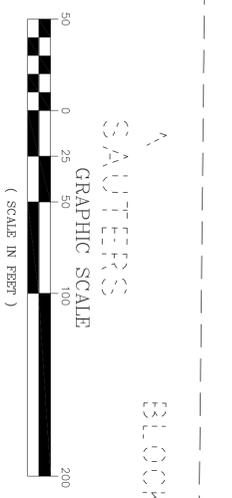
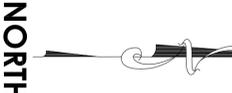
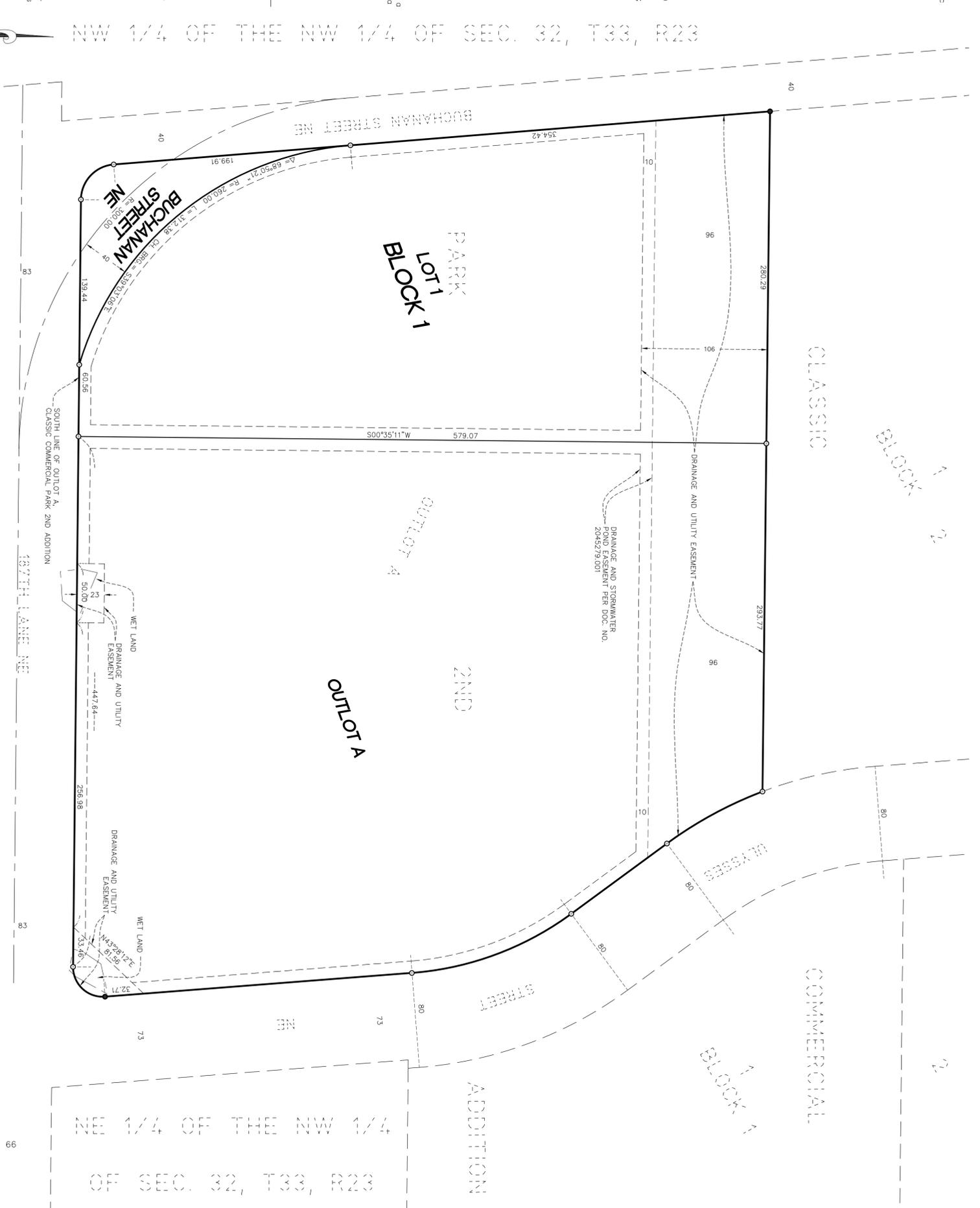
County Recorder/Registrar of Titles

By _____ Deputy

DRAINAGE AND UTILITY EASEMENTS ARE SHOWN THUS:

- DENOTES ½ INCH BY 14 INCH IRON PIPE MARKED BY RLS NO. 41578.
 - DENOTES FOUND IRON MONUMENT
- FOR THE PURPOSES OF THIS PLAT THE SOUTH LINE OF OUTLOT A, CLASSIC COMMERCIAL PARK 2ND ADDITION, IS ASSUMED TO HAVE A BEARING OF SOUTH 89 DEGREES 24 MINUTES 49 SECONDS EAST.

BEING 10 FEET IN WIDTH AND ALL LOT LINES AND RIGHT OF WAY LINES, UNLESS OTHERWISE SHOWN ON THIS PLAT.



E.G. RUD & SONS, INC.
Professional Land Surveyors
EST. 1977

PRELIMINARY PLAT

~of~ CLASSIC COMMERCIAL PARK 3RD ADDITION

DEVELOPER:

CLASSIC CONSTRUCTION
18542 ULYSSES ST. NE
EAST BETHEL, MN 55011
(763) 434-8870

PROPERTY OWNERS:

CD PROPERTIES NORTH, LLC

EXISTING PROPERTY DESCRIPTION:

Outlot A, CLASSIC COMMERCIAL PARK 2ND ADDITION, Anoka County, Minnesota

NOTES

- Field survey was completed by E.G. Rud and Sons, Inc. on 8/8/14.
- Parcel ID No. 32-33-23-21-0014.
- Total boundary area = 390,841 sq. ft. (8.97 acres).
- Bearings shown are on the Anoka County Coordinate System.
- Proposed site plan by E.G. Rud and Sons, Inc.
- This survey was prepared without the benefit of title work. Additional easements, restrictions and/or encumbrances may exist other than those shown hereon. Survey subject to revision upon receipt of a current title commitment or an attorney's title opinion.

LEGEND

- DENOTES IRON MONUMENT FOUND AS LABELED
- DENOTES IRON MONUMENT SET, MARKED R.I.# 415178
- DENOTES CATCH BASIN
- ⊙ DENOTES SANITARY SEWER MANHOLE
- ⊕ DENOTES HYDRANT
- ⊗ DENOTES GATE VALVE
- DENOTES EXISTING CONTOURS
- DENOTES EXISTING SANITARY SEWER
- DENOTES EXISTING SANITARY FORCEMAIN
- DENOTES EXISTING STORM SEWER
- DENOTES EXISTING WATER MAIN
- DENOTES PROPOSED RETAINING WALL
- DENOTES CONCRETE SURFACE
- DENOTES BITUMINOUS SURFACE

VICINITY MAP

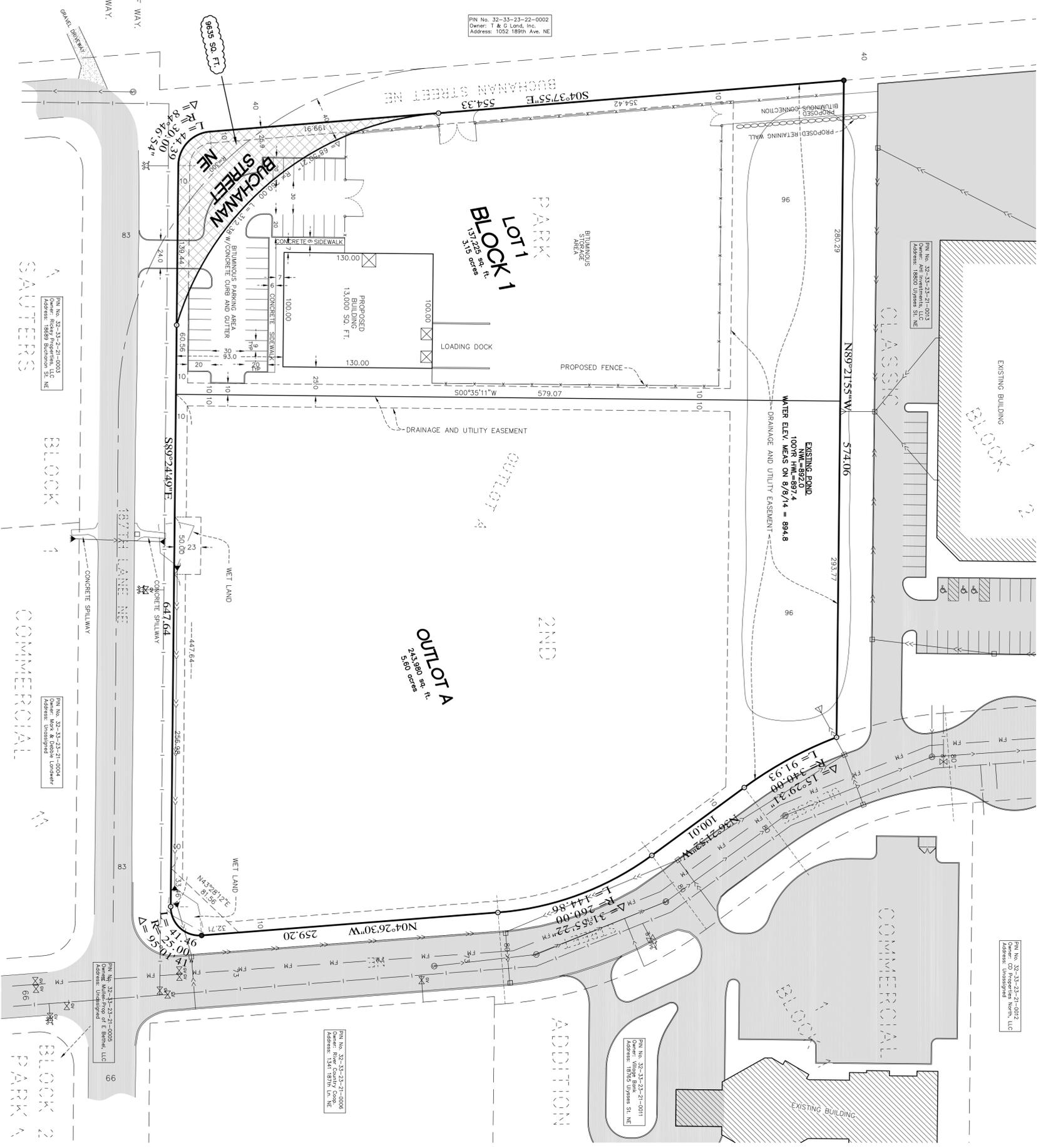
PART OF SEC. 32, TWP. 33, RNG. 23



ANOKA COUNTY, MINNESOTA
 (NO SCALE)

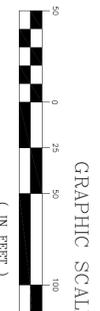
ZONING INFORMATION

EXISTING ZONING = HIGHWAY COMMERCIAL (B-3) DISTRICT
 LOT STANDARDS:
 -23,000 sq. ft. MINIMUM LOT SIZE.
 -100 FOOT MINIMUM LOT WIDTH.
 BUILDING SETBACKS:
 -40 FEET FRONT - ADJOINING CITY RIGHT OF WAY.
 -10 FEET FRONT - ADJOINING STATE/COUNTY RIGHT OF WAY.
 -10 FEET SIDE - INTERIOR
 -40 FEET SIDE - ADJOINING CITY RIGHT OF WAY.
 -100 FEET SIDE - ADJOINING STATE/COUNTY RIGHT OF WAY.
 -25 FEET REAR
 -60 FEET REAR - ABUTTING RESIDENTIAL DISTRICT



I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

JASON E. RUD
 License No. 415178



E.G. RUD & SONS, INC.
 Professional Land Surveyors
 6776 Lake Drive NE, Suite 110
 Lino Lakes, MN 55014
 Tel: (651) 361-8200 Fax: (651) 361-8701
 www.egrud.com

NO.	DATE	DESCRIPTION	BY
1	10/28/14	REVIS. R/W AT SW CORNER	BAB
2			
3			



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

Item 8.0 A.4

Agenda Item:

Administrative Subdivision Request

Requested Action:

Applicant: Kathleen Bell-Fiedelman
20207 Polk St NE
East Bethel, MN 55011

Owner: Irene Stern
20204 Highway 65 NE
East Bethel, MN 55011

Administrative Subdivision Request – to subdivide a metes and bounds parcel into two lots.
PID #20-33-23-34-0003;
Zoning – R1 and R2
Significant Natural Environmental Overlay

Background Information:

Ms. Stern is interested in subdividing her property into two separate parcels for the purpose of sale of Parcel A (10.03 acres). The remaining use of the acreage (Parcel B - 53.75 acres) would remain unchanged. The existing property is a Metes and Bounds parcel and Ms. Stern is allowed to divide off one parcel from the original through the Administrative Subdivision process. This property is located at the northwest corner of the intersection of Klondike Drive and Hwy. 65.

On October 28, 2014 the Planning Commission approved the Administrative Subdivision request of the owner, Irene Stern to subdivide property into two separate metes and bounds parcels as described below:

Parcel A (10.03 Acres):

That part of the east 532 feet of the South Half of the Northwest Quarter of Section 20, Township 33, Range 23, Anoka County, Minnesota which lies northerly of the south 330 feet thereof.

Parcel B (53.75 Acres):

The South Half of the Northwest Quarter of Section 20, Township 33, Range 23, Anoka County Minnesota except the 4 following described parcels:

- 1.) The south 330 feet of the east 660 feet thereof.
- 2.) The north 660 feet of the west 330 feet thereof.

- 3.) That part of said South Half described as follows:
 Commencing at the southwest corner of said Northwest Quarter of Section 20; thence easterly along the south line thereof 567.73 feet to the point of beginning; thence north at right angles 446.32 feet; thence east at right angles 488 feet; thence south at right angles 446.32 feet to said south line; thence westerly along said south line 488 feet to the point of beginning.
- 4.) That part of the east 532 feet of the South Half of the Northwest Quarter of Section 20, Township 33, Range 23, Anoka County, Minnesota which lies northerly of the south 330 feet thereof.

Attachments:

1. Administrative Subdivision Plat & SNEA Overlay maps

Recommendation:

The Planning Commission recommends City Council approval of the Administrative Subdivision for Irene Stern as presented.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

Item 8.0 G.1

Agenda Item:

City Ordinance, Chapter 10, Animals, Section II-Dogs

Requested Action:

Consider

Background Information:

At the October 1, 2014 Council meeting, Amanda Olson, 1131 Pierce Path, requested that Council consider amending the City Ordinance, Chapter 10, Animals, Section II- Dogs, Division 2- Kennels. Ms. Olson is requesting that Council consider reducing the acreage required for keeping of dogs. Ms. Olson lives on a 0.234 acre lot and wants to keep more than 3 dogs. Per City Ordinance, the maximum number of dogs allowed without a kennel license on lots less than 2.5 acres is two. More than two dogs requires a private kennel license and the maximum number of dogs allowed with this license is to be determined by the number of acres (see attachment 1).

Ms. Olson wants to keep three dogs but City Ordinance requires that lot sizes for 3 dogs is 2.5 to 2.99 acres. Staff reviewed requirements for Oak Grove, Ham Lake and Cambridge and found their restrictions for the number of dogs that can be kept without a kennel license is less restrictive than our Ordinance. Please keep in mind that the number one category of complaints received by the City is for dog issues. We currently have four dog reports of violation under review at this time and these issues are difficult to enforce and resolve.

Staff is of the opinion that any further relaxation of City Ordinances that relates to dogs could increase the number of dog complaints and the amount of Staff time and resources to address these problems.

Attachments:

Attachment 1- City Ordinance, Division 2, Kennels

Fiscal Impact:

To be determined

Recommendation(s):

At this time Staff feels that the need to amend the Ordinance needs to be more clearly demonstrated before any consideration is given to this matter. Staff requests direction from Council should there be an interest in further discussion of this matter.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

DIVISION 2. KENNELS

Sec. 10-54. Kennel license.

Sec. 10-55. Conditions for issuance of a private kennel license.

Sec. 10-56. Conditions for issuance of a commercial kennel license.

Sec. 10-57. Revocation of kennel licenses.

Secs. 10-58—10-69. Reserved.

Sec. 10-54. Kennel license.

(a)

The maximum number of dogs allowed without a kennel license is two. The maximum number of dogs allowed with a private kennel license is to be determined by the number of acres:

(1)

Greater than 2.5 acres but less than three acres: three dogs.

(2)

Three acres or more but less than five acres: four dogs.

(3)

Five acres or more but less than ten acres: six dogs.

(4)

Ten acres or more: maximum ten dogs.

(b)

No private kennel licenses shall be issued on parcels of 2½ acres or less. No commercial kennel licenses shall be issued in zoning districts other than commercial and industrial districts. The city shall not approve variances to allow private kennel licenses on parcels of less than 2½ acres, and shall not approve variances or other zoning devices to allow commercial kennel licenses in zones other than commercial and industrial districts.

(c)

No person shall maintain a private or commercial kennel in the city without securing a license therefor from the city council. The fee for the license shall be as established by resolution of the city council.

(d)

Prior to issuance of a private kennel license from the city council, a hearing before the planning and zoning commission must be held. Notice must be given to all affected property owners within one-

quarter mile of the outside dimensions of the parcel where the kennel is contemplated. The planning and zoning commission will make a recommendation to the city council on the request.

(e)

Prior to issuance of a commercial kennel license from the city council, a hearing before the planning and zoning commission requesting an interim use permit must be held. Notice must be given to all affected property owners within 500 feet of the outside dimensions of the parcel where the kennel is contemplated, and published in the city's official newspaper at least ten days before the public hearing. The planning and zoning commission will make a recommendation to the city council on the request.

(f)

Private kennel licenses do not confer any property rights upon the licensee, and the issuance of said licenses does not assume that future licenses will be granted. Licensees will need to independently assess whether any improvements made in relation to city requirements will be amortized during the initial time period of the license. Licenses will be issued for a set number of dogs, which shall not be exceeded. Licensees who wish to add a dog need to reapply for a private kennel license. Licensees who relocate to another area of the city need to reapply for a private kennel license. Licenses are not assignable to other parties.

(g)

The initial term for a private kennel license shall be one year; subsequent licenses, if so granted, will be for a term of up to three years.

(h)

Licensees authorize city staff to perform periodic, random inspections of the kennel for the purpose of determining compliance with the conditions of their license.

(i)

No party, person, corporation, or other entity will be allowed more than one private kennel license.

(j)

Kennel licenses in effect on residential property at the time of adoption of the ordinance from which this article is derived that do not meet the requirements of this article are considered legal, nonconforming licenses and can continue to keep up to the number of dogs authorized by the kennel license at the time of adoption of the ordinance from which this article is derived. Adding more dogs to an existing license would require meeting the requirements of subsection (f) of this section.

(Ord. No. 101a, § 3, 3-6-2002; Ord. No. 101b, § 3, 3-6-2002; Ord. No. 201, § 3, 12-7-2005; Ord. No. 101D, § 3, 5-16-2007)

Sec. 10-55. Conditions for issuance of a private kennel license.

The following conditions are mandatory for the issuance of a private kennel license:

(1)

Housing enclosures shall be located as not to create a nuisance and shall not encroach upon any setback area.

(2)

Dogs shall be confined to their own property by a provable means.

(3)

Housing and shelter must be provided which will keep animals comfortable and protected from the elements.

(4)

Accumulations of feces shall be located at least 200 feet from any well.

(5)

All accumulations of feces shall be removed at such periods as will ensure that no leaching or objectionable odors exist, and the premises shall not be allowed to become unsightly.

(6)

All dogs shall have access to indoor housing from the hours of 10:00 p.m. to 6:00 a.m.

(7)

The city council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.

(8)

Kennels shall be considered an accessory structure for setback purposes.

(Ord. No. 101a, § 4, 3-6-2002; Ord. No. 101b, § 4, 3-6-2002; Ord. No. 101D, § 4, 5-16-2007)

Sec. 10-56. Conditions for issuance of a commercial kennel license.

The following conditions are mandatory for the issuance of a commercial kennel license:

(1)

Outdoor animal exercise shall be conducted within the confines of the property, and limited to leashed animals under the direct supervision of their owners or commercial kennel staff.

(2)

Indoor housing facilities must be structurally sound with ample heat, light, soundproofing and ventilation. The applicant must submit a soundproofing inspection certifying that the structure will keep the sound of the dogs undetectable from a distance of ten feet.

(3)

Dogs kept outside must have continual access so animals can get in and out of shelter and protect them from the elements.

(4)

If dogs are confined by chains, such chains must be attached so as not to become entangled with chains of other dogs.

(5)

Individual animal enclosures must be of a size to allow each dog to turn around fully, stand, sit and lie in a comfortable condition.

(6)

The temperature of indoor housing facilities shall not be less than 50 degrees Fahrenheit for dogs not accustomed to lower temperatures.

(7)

Disposal facilities are provided to minimize virus infestation, odors and disease hazards.

(8)

Adequate storage and refrigeration is provided to protect food supplies against contamination and deterioration.

(9)

The city council reserves the right to issue additional conditions on a case-by-case basis in order to maintain the public repose.

(10)

All applicable county and state laws pertaining to the operation of a commercial kennel business are hereby incorporated by reference.

(11)

Commercial kennels in commercial and industrial districts shall meet the underlying zoning regulations.

(12)

Commercial kennels shall be connected to public sewer or an on-site treatment system to handle waste.

(Ord. No. 101a, § 5, 3-6-2002; Ord. No. 101b, § 5, 3-6-2002; Ord. No. 101D, § 5, 5-16-2007)

Sec. 10-57. Revocation of kennel licenses.

(a)

Upon observation that one or more of the conditions issued by the city council on a private or commercial kennel license holder is not observed, the city will notify the licensee that the city intends to revoke the private or commercial kennel license. A hearing before the planning and zoning commission will be held prior to making a decision. A recommendation to the city council to revoke a private kennel license will require a majority of those members present and voting. A decision by the city council to revoke a private kennel license will require a majority vote of those members present and voting. The decisions of the city council pertaining to private kennel licenses are final and not appealable; the decisions of the city council on commercial kennel licenses are appealable to the county district court.

(b)

Upon evidence that the decision of the city council has not been followed by the licensee, and in the case of commercial kennel licensees an appeal has not been filed in county district court, the city will contact the animal control officer to pick up the dog and arrange for compliance with the city council's decision. All costs associated with compliance will be billed to the real property owner where the dog resides. Unpaid bills will be certified to the county and placed as a lien on the property.

(Ord. No. 101b, § 10, 3-6-2002; Ord. No. 101D, § 10, 5-16-2007)

Secs. 10-58—10-69. Reserved.



City of East Bethel City Council Agenda Information

Date:

November 5, 2014

Agenda Item Number:

Item 8.0 G.2

Agenda Item:

Minnesota Rules Chapter 8410 relating to local Water Management Organizations (WMO)

Requested Action:

Consider comment on proposed administrative rules changes for Chapter 8410

Background Information:

The Board of Water and Soil Resources (BWSR) is accepting comments on a hearing request for a proposed amendment to Minnesota Rules Chapter 8410 relating to local Water Management Organizations. The comment period runs until November 10, 2014. Attached is a copy of the Proposed Permanent Rules Relating to Local Water Management, Revisor's Draft.

BWSR is proposing to update state rules 8410 which cover WMO plans, reporting and related activities. The primary changes relate to the following:

- A requirement for more measurable actions and goals in watershed plans
- Make it easier for watershed organization's to make minor amendments to their 10-year plans. Their hope is that the plan can be more of a "living" or adaptable document
- Update annual reporting requirements. New reporting must show more clearly how accomplishments relate to goals. It must also recognize trends in water resources that may require attention
- Change audit requirements for WMOs with small budgets
-

One item that is of particular interest is that BWSR is proposing that they will charge the WMO for costs of any performance or financial audit that BWSR conducts.

The following are Jamie Schurbon's (ACD contract Manager for the URRMO) comments and concerns on the proposed audit charges:

- (a) The responsibility for watershed organization oversight is BWSR's, and BWSR is funded accordingly by the State. If BWSR lacks sufficient funding to carry out its oversight role, this should be addressed with the State Legislature, not charged to local governments.
- (b) Costs to correct organizational deficiencies should be borne by the organization. The cost to determine if there are deficiencies should not.
- (c) The costs the state may incur are outside the control of the WMO and unknown. Requiring the watershed organization to pay all audit costs removes any financial incentive BWSR may have to conduct the audit expeditiously.

An additional issue it appears BWSR is attempting to address is how to deal with low performing watershed organizations and member cities. The revised rule has a more detailed process for reviews, appeals and audits. The options for punitive action are unchanged because they are within state statute, not rule. The options include transferring water planning authority to the county or forming a watershed district by combining WMO's.

This is a sensitive issue. Dealing with an uncooperative member city is more challenging and the rule/statute offers little for corrective actions but lots of process for identifying problems and recommending it be corrected. It is the WMO's responsibility to deal with a city that is "failing to implement" the watershed plan but the WMO is not well positioned to correct the city because its members are appointed by the cities and the cities provide the funding.

Attachments:

Attachment 1- Proposed Permanent Rules Relating to Watershed Management

Attachment 2- ACD Comments to Proposed Rule Changes

Fiscal Impact:

To be determined

Recommendation(s):

Staff is requesting Council consider comment on the proposed BWSR changes to Chapter 8410.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

1.1 **Board of Water and Soil Resources**1.2 **Proposed Permanent Rules Relating to Local Water Management**1.3 **8410.0010 SCOPE.**

1.4 Subpart 1. **Application.** ~~Upon adoption, Parts 8410.0010 to 8410.0180~~ 8410.0160
 1.5 apply to the general administration of metropolitan watershed management activities and
 1.6 to ten-year plan amendments to existing plans made approved by the board one year or
 1.7 later after January 1, 1995 the effective date of this section, except when a watershed
 1.8 management organization requests approval of a ten-year plan amendment or portions
 1.9 of an amendment under parts 8410.0010 to 8410.0160 within one year of the effective
 1.10 date of this section. ~~If no plan has been submitted to the board by August 3, 1992, any~~
 1.11 ~~plan thereafter submitted must be in compliance with parts 8410.0010 to 8410.0180.~~
 1.12 A watershed management organization ~~must~~ shall amend its plan ~~consistent with parts~~
 1.13 ~~8410.0010 to 8410.0180~~ and submit amendments to the board according to its amendment
 1.14 schedule and amendment procedures ~~outlined in part 8410.0140, but not later than ten~~
 1.15 ~~years from the date of initial plan approval~~ consistent with this chapter.

1.16 Subp. 2. [See repealer.]

1.17 **8410.0020 DEFINITIONS.**

1.18 Subpart 1. **Scope Applicability.** The definitions in this part and in Minnesota
 1.19 Statutes, section 103B.205, apply to parts 8410.0010 to 8410.0180 and have the meanings
 1.20 given them.

1.21 [For text of subp 2, see M.R.]

1.22 Subp. 3. **Capital improvement.** "Capital improvement" means a physical
 1.23 improvement that has an extended useful life. A capital improvement is not directed
 1.24 toward maintenance of an in-place system during its life expectancy.

3.1 of Natural Resources, the Pollution Control Agency, and the Board of Water and Soil
3.2 Resources.

3.3 Subp. 16. **Plan review authorities.** "Plan review authorities" means the
3.4 Metropolitan Council, the Department of Agriculture, the Department of Health, the
3.5 Department of Natural Resources, the Pollution Control Agency, the Board of Water and
3.6 Soil Resources, and counties, cities, towns, and soil and water conservation districts
3.7 partially or wholly within the watershed management organization as defined in Minnesota
3.8 Statutes, section 103B.231, ~~subdivisions~~ subdivision 7, 8, and 9.

3.9 [For text of subp 17, see M.R.]

3.10 Subp. 18. **Seven-county metropolitan area or metropolitan area.** "Seven-county
3.11 metropolitan area" ~~means the counties of Anoka, Carver, Dakota, Hennepin, Ramsey,~~
3.12 ~~Scott, and Washington, excluding the corporate boundaries of the city of New Prague~~
3.13 or "metropolitan area" has the meaning given in Minnesota Statutes, section 473.121,
3.14 subdivision 2.

3.15 Subp. 19. [See repealer.]

3.16 Subp. 19a. **Ten-year plan amendment.** "Ten-year plan amendment" means a
3.17 comprehensive amendment of a watershed management plan done not less than five years
3.18 and not more than ten years after approval of the current plan by the Board of Water and
3.19 Soil Resources. Ten-year plan amendments are typically done every ten years and are
3.20 commonly referred to as plan revisions, revised plans, or plan updates.

3.21 [For text of subps 20 to 22, see M.R.]

3.22 Subp. 23. **Wetlands.** ~~"Wetlands" means waters of the state identified as wetlands~~
3.23 ~~under~~ has the meaning given in Minnesota Statutes, section 103G.005, subdivision 19,
3.24 paragraph (a).

3.25 Subp. 24. [See repealer.]

4.1 **8410.0030 ~~CONTENT OF JOINT POWERS AGREEMENTS.~~**

4.2 Subpart 1. **Requirements.** In addition to a description of any authorities adopted
4.3 under the content requirements of joint powers agreements as outlined in Minnesota
4.4 Statutes, section 103B.211, subdivision 1, joint powers agreements establishing a
4.5 watershed management organization ~~must~~ or amending an existing joint powers agreement
4.6 shall, at a minimum, contain the following items:

4.7 A. a purpose statement consistent with Minnesota Statutes, section 103B.201;

4.8 B. a section defining the powers and duties of the organization;

4.9 ~~B.C.~~ an official map based on parcels or a complete legal description defining
4.10 the boundary of the organization;

4.11 ~~C.~~ a requirement to adopt rules of order and procedure;

4.12 D. a section defining how the organization's members will be represented, with
4.13 the total number of members on a joint powers board to be at least three;

4.14 E. a section outlining meetings to be scheduled at least annually;

4.15 F. a notification process for the agenda, location, and time of meetings;

4.16 ~~D.G.~~ a process procedures for establishing an annual budget and annual
4.17 establishment of a work plan and budget;

4.18 E. ~~a formula for determining each member's share of the annual operating budget;~~

4.19 F. ~~a statement of how member appointees are to be compensated;~~

4.20 ~~G.H.~~ a procedure providing for the establishment of citizen and technical an
4.21 advisory committees committee or other means of public participation;

4.22 H. ~~a section defining the powers and duties of the organization;~~

5.1 I. a formula for determining the share of the annual operating budget for each
5.2 of the organization's members or a description of revenue generating authorities the
5.3 organization will utilize;

5.4 ~~I.J. a section establishing the duties and terms of the officers of the organization;~~

5.5 ~~J. a notification process on the location and time of meetings;~~

5.6 ~~K. a section defining the voting requirements for decision making and capital~~
5.7 ~~improvements consistent with Minnesota Statutes, section 103B.211, subdivision 1,~~
5.8 ~~paragraph (c);~~

5.9 ~~L. a section outlining meetings to be scheduled at least annually;~~

5.10 M.K. the process and responsibilities of the organization and its members for
5.11 filling vacancies consistent with Minnesota Statutes, section 103B.227, subdivisions
5.12 1 and 2;

5.13 L. a section specifying the compensation for members of a joint powers board;

5.14 M. a section defining the voting requirements for decision making and capital
5.15 improvements consistent with Minnesota Statutes, section 103B.211, subdivision 1,
5.16 paragraph (c);

5.17 N. a requirement to adopt rules of order and procedure; and

5.18 ~~N.O.~~ the duration of the agreement and a process for dissolution that provides for
5.19 at least 90 days' notice of the intent to dissolve to the affected counties and the board; ~~and.~~

5.20 ~~O. a section defining how the membership will be represented, with the total~~
5.21 ~~number of representatives to be at least three.~~

5.22 Subp. 2. **Updating.** Joint powers agreements must be updated if necessary to be in
5.23 conformance with this chapter ~~no later than July 27, 1993,~~ as determined by the board,
5.24 before the board makes a decision on a draft plan or plan amendment.

6.1 [For text of subp 3, see M.R.]

6.2 **8410.0040 REMOVAL OF ORGANIZATION REPRESENTATIVES.**

6.3 Subpart 1. Removal for violations. A manager of a watershed district or a member
6.4 of a joint powers board may be removed from the position by a majority vote of the
6.5 appointing authority before term expiration for violation of a code of ethics or bylaws
6.6 of the watershed management organization or appointing authority or for malfeasance,
6.7 nonfeasance, or misfeasance, after being provided an opportunity for a hearing before
6.8 the appointing authority.

6.9 Subp. 2. Removal; elected officials, at-will members. ~~Managers~~ A member of a
6.10 joint powers board who is holding the position as an elected official who are not reelected;
6.11 is no longer serving in that position or are who is serving an indefinite term at the pleasure
6.12 of the appointing authority, may be removed by the appointing authority at will. A decision
6.13 of the appointing authority may be appealed to the Board of Water and Soil Resources.

6.14 **8410.0045 ISSUE IDENTIFICATION AND ASSESSMENT.**

6.15 Subpart 1. Priority issues.

6.16 A. Each plan shall identify priority issues in consideration of:

6.17 (1) water management problems, including prevention of future water
6.18 management problems;

6.19 (2) funding levels; and

6.20 (3) regional, county, city, state, and federal water management priorities
6.21 that are identified under this part.

6.22 B. Priority issues must be evaluated, addressed, and prioritized in the goals and
6.23 implementation sections of the plan according to parts 8410.0080 and 8410.0105.

7.1 Subp. 2. **Advisory committee.** Watershed districts must comply with Minnesota
7.2 Statutes, sections 103D.331 and 103D.337. All other organizations must establish an
7.3 advisory committee, committees, or other means of public and technical participation
7.4 acceptable to the board, for the purpose of making recommendations on a plan or ten-year
7.5 plan amendment. The recommendations must address the issues identified under subpart
7.6 7. The process must be summarized in the plan or ten-year plan amendment.

7.7 Subp. 3. **Plan review agency notification and involvement in plan development.**
7.8 Before development of a plan or ten-year plan amendment, an organization must send
7.9 notification to each plan review agency of plan initiation and correspondence requesting
7.10 the management expectation for the plan review agency's priority issues, summaries of
7.11 relevant water management goals, and water resource information. The organization must
7.12 allow at least 60 days for the information to be submitted. For information received within
7.13 the prescribed time period, the organization must take into consideration the goals of the
7.14 plan review agencies and identify in the plan or plan amendment any inconsistencies with
7.15 the organization's goals.

7.16 Subp. 4. **Review of local issues and controls.** Before development of a plan
7.17 or ten-year plan amendment, an organization must send notification to each county,
7.18 city, township, and soil and water conservation district wholly or partially within
7.19 the organization, and to known stakeholders including the Minnesota Department of
7.20 Transportation, of plan initiation and correspondence requesting input that includes local
7.21 water-related issues, water management goals, official controls, and programs. The
7.22 organization must allow at least 60 days for the information to be submitted. Known
7.23 stakeholders include, but are not limited to, any entity that requests to be placed on the
7.24 organization's mailing list. For information received within the prescribed time period, the
7.25 organization must take into consideration the local water management goals and identify
7.26 in the plan or plan amendment any inconsistencies with the organization's goals.

8.1 Subp. 5. Initial planning meeting. In the development of a plan or ten-year plan
8.2 amendment and after completion of the time requirements under subparts 3 and 4, an
8.3 organization must hold an initial planning meeting presided over by the organization's
8.4 governing body to receive, review, and discuss input. Written notification must be made to
8.5 the plan review authorities and known stakeholders including affected counties, cities, and
8.6 towns and the Minnesota Department of Transportation. Legal notice must be posted on the
8.7 organization's Web site and comply with open meeting law requirements. All notifications
8.8 must occur at least two weeks before the meeting. The plan must document the public input.

8.9 Subp. 6. Relationship with other programs. In consideration of subpart 1, item A,
8.10 subitem (3), a plan or ten-year plan amendment shall identify and consider all relevant
8.11 plans and programs in setting priority issues. An organization must coordinate its planning
8.12 activities with contiguous organizations and with counties and cities conducting water
8.13 planning within the boundaries of the organization.

8.14 Subp. 7. Assessment of issues and identification of priority issues. In developing
8.15 a plan or ten-year plan amendment, an organization must identify priority issues after
8.16 assessing available information including the input received under this part and data
8.17 and trend analyses under part 8410.0060. The input received must be summarized and
8.18 the assessment process for evaluating issues received, and goals received from the plan
8.19 review authorities, must be included in the plan or ten-year plan amendment. The
8.20 success of implementing the previous plan, if any, must be summarized and considered in
8.21 identifying priority issues.

8.22 **8410.0050 EXECUTIVE SUMMARY.**

8.23 Each plan ~~must~~ shall have a section entitled "Executive Summary." The summary
8.24 ~~should outline~~ must include:

8.25 A. the purpose of the watershed management organization; ~~the membership of~~
8.26 ~~the organization's board of managers; the general boundaries of the organization; a brief~~

9.1 ~~history of the organization; a summary of the organization's goals, problems, and potential~~
 9.2 ~~solutions; and the general content of required local plans.~~

9.3 B. a map of the organization;

9.4 C. the primary issues addressed in the plan;

9.5 D. the main goals in the plan;

9.6 E. the major actions in the plan; and

9.7 F. the responsibilities of local governments related to implementation of the
 9.8 plan including any changes in responsibilities from the previous plan.

9.9 **8410.0060 LAND AND WATER ~~RESOURCE INVENTORY~~ RESOURCES.**

9.10 Subpart 1. **Required Requirements.** Each plan must contain ~~an inventory of water~~
 9.11 ~~resource and physical factors affecting the water resources based on existing records and~~
 9.12 ~~publications. If data publications and maps are available at a convenient central location,~~
 9.13 ~~they may be included by reference. The plan must include a brief summary of the data and~~
 9.14 ~~must identify where the publication can be obtained. At a minimum, the information in~~
 9.15 ~~subparts 2 to 11 must be included in the plan. Subparts 2 and 4, item E, may be in the~~
 9.16 ~~local plan instead of the watershed management organization plan. information and a~~
 9.17 general analysis based on existing records, plans, and publications for the elements listed
 9.18 in items A to M or from a previous plan of the organization or a county groundwater plan.
 9.19 Information may be incorporated by reference if the data is generally described in the plan
 9.20 and the complete data and analysis is in a freely accessible location that is specified.
 9.21 At a minimum, the plan must include a map of the surface water resources within the
 9.22 boundaries of the organization. Elements to include are:

9.23 A. topography;

9.24 B. soil;

9.25 C. general geology;

- 10.1 D. precipitation;
- 10.2 E. surface water resources including streams, lakes, wetlands, public waters,
- 10.3 and public ditches;
- 10.4 F. water quality and quantity including trends of key locations and 100-year
- 10.5 flood levels and discharges;
- 10.6 G. groundwater resources, including groundwater and surface water connections
- 10.7 if defined in an approved and adopted county groundwater plan;
- 10.8 H. storm water systems, drainage systems, and control structures;
- 10.9 I. regulated pollutant sources and permitted wastewater discharges;
- 10.10 J. fish and wildlife habitat and rare and endangered species;
- 10.11 K. water-based recreation areas;
- 10.12 L. existing land uses and proposed development in local and metropolitan
- 10.13 comprehensive plans; and
- 10.14 M. priority areas for wetland preservation, enhancement, restoration, and
- 10.15 establishment.
- 10.16 Subp. 2. [See repealer.]
- 10.17 Subp. 3. [See repealer.]
- 10.18 Subp. 4. [See repealer.]
- 10.19 Subp. 5. [See repealer.]
- 10.20 Subp. 6. [See repealer.]
- 10.21 Subp. 7. [See repealer.]
- 10.22 Subp. 8. [See repealer.]
- 10.23 Subp. 9. [See repealer.]

11.1 Subp. 10. [See repealer.]

11.2 Subp. 11. [See repealer.]

11.3 **8410.0080 ESTABLISHMENT OF GOALS AND POLICIES.**

11.4 Subpart 1. ~~Plan contents~~ **Requirements.** Each plan ~~must~~ or ten-year plan
 11.5 amendment shall contain specific goal statements and corresponding policies relating to
 11.6 ~~the overall purposes specified in Minnesota Statutes, section 103B.201.~~ measurable goals
 11.7 that address issues identified under subparts 2 to 8 in conjunction with the priority issues
 11.8 that are identified by the organization under part 8410.0045. The goals must be consistent
 11.9 with the intent of the metropolitan water management program purposes in Minnesota
 11.10 Statutes, section 103B.201, and state and federal standards. The goals and policies of
 11.11 ~~the watershed management organization shall~~ coordinate and attempt to avoid resolve
 11.12 conflict with town, city, county, regional, or state goals and policies. The goals must
 11.13 ~~be outlined in~~ contain sufficient detail to provide direction regarding what the policies
 11.14 goals should accomplish, provide direction to the organization's board, and allow for the
 11.15 success or failure of the goals and policies to be quantified measured. The goals and
 11.16 ~~policies should recognize the fundamental relationship between water quality and land~~
 11.17 ~~use. Development of goals and policies must, at a minimum, address the issues in subparts~~
 11.18 ~~2 to 9.~~ A procedure must be included to evaluate progress for each goal defined in this part
 11.19 at a minimum of every two years according to part 8410.0150, subpart 3, item E.

11.20 Subp. 2. **Water quantity.** Each plan ~~must outline goals and policies describing~~
 11.21 ~~how storm water runoff will be managed. The maximum allowable peak runoff must be~~
 11.22 ~~established for appropriate subwatersheds to the extent necessary to assure that the goals~~
 11.23 ~~and policies of the organization will be met and address how runoff from developments~~
 11.24 ~~creating more than one acre of new impervious surface will be managed with respect to~~
 11.25 ~~Minnesota Statutes, section 103B.3365. The plan must describe the criteria used for~~
 11.26 ~~defining "appropriate subwatersheds."~~ Water quantity goals must be established to address

12.1 priority issues, at a minimum, considering volume, peak rate, base flow, imperviousness,
12.2 or similar issues. The goals must recognize current trend direction and the fundamental
12.3 relationship between water quantity and land use.

12.4 ~~Subp. 3. **Water quality.** Each plan must outline specific water quality goals and~~
12.5 ~~policies for natural surface water storage and retention systems within the organization.~~
12.6 ~~Goals should be related to parameters or quantities that can be measured. The relationship~~
12.7 ~~of land use to water quality should be considered when developing goals and policies.~~
12.8 ~~The goals and policies should be developed to strive for compliance with applicable~~
12.9 ~~water quality standards and be suitable for the intended uses of natural surface water~~
12.10 ~~storage and retention systems. Water quality goals must be established to address priority~~
12.11 ~~issues considering the uses of the water resource. The goals must recognize current trend~~
12.12 ~~direction and the fundamental relationship between water quality and land use. If water~~
12.13 ~~quality goals in the plan are less stringent than state water quality standards, the plan~~
12.14 ~~must acknowledge this.~~

12.15 Subp. 4. [See repealer.]

12.16 Subp. 5. [See repealer.]

12.17 Subp. 6. **Public ditch drainage systems.** ~~If Public ditch systems constructed~~
12.18 ~~under Minnesota Statutes, chapter 103D or 103E, are within the organization, the plan~~
12.19 ~~shall by policy drainage system management goals must be established. The goals must~~
12.20 ~~define the organization's relationship to the ditch drainage authority and. The plan may~~
12.21 ~~recommend whether or not there are advantages to managing the ditch drainage systems~~
12.22 ~~under the Metropolitan Water Management Act or through transferring the drainage~~
12.23 ~~authority according to Minnesota Statutes, section 103E.812, and may determine whether~~
12.24 ~~ditch drainage maintenance activities have the potential of adversely impacting any goal~~
12.25 ~~of the organization. The plan must generally describe the effect of the plan on existing~~
12.26 ~~drainage systems.~~

13.1 Subp. 7. **Groundwater.** ~~If a county groundwater plan has not commenced at the~~
13.2 ~~time the plan or plan amendment is initiated, the organization shall assess the need and~~
13.3 ~~degree of involvement the organization has in groundwater management and establish~~
13.4 ~~appropriate goals and policies.~~ Goals must be established to address groundwater-surface
13.5 water interactions defined in approved and adopted county groundwater plans that are in
13.6 effect. Organizations are encouraged to establish goals to address groundwater issues
13.7 identified within the area of the organization in the Twin Cities Metropolitan Area Master
13.8 Water Supply Plan, source water protection plans, and local water supply plans.

13.9 Subp. 8. **Wetlands.** ~~Each plan must outline specific goals and policies regarding~~
13.10 ~~the management of wetlands within the organization and identify high priority areas for~~
13.11 ~~wetland preservation, restoration, and establishment. Wetland management goals and~~
13.12 ~~policies should address utilization, protection and preservation, and the enhancement~~
13.13 ~~or restoration of wetlands identified in the organization. Each plan must also evaluate~~
13.14 ~~the need to establish a wetland banking system.~~ Goals must be established for wetland
13.15 management. The goals must recognize the fundamental relationship between wetland
13.16 management and land use.

13.17 Subp. 9. [See repealer.]

13.18 **8410.0105 IMPLEMENTATION ACTIONS.**

13.19 Subpart 1. **Requirements.** Each plan shall contain prioritized implementation
13.20 actions through the year the plan extends to that consists of administrative processes and
13.21 programs to address the goals defined under part 8410.0080 and that is consistent with the
13.22 principles of part 8410.0045, subpart 1, item A. The programs described in subparts 2
13.23 to 6 must be included in each plan unless the plan sufficiently justifies that a program or
13.24 program element is not needed. Each plan shall include a procedure to evaluate progress
13.25 for the implementation actions at a minimum of every two years according to part
13.26 8410.0150, subpart 3, item E. Each plan shall:

14.1 A. include a table that briefly describes each component of the implementation
14.2 actions, the schedule, estimated cost, and funding sources for each component including
14.3 annual budget totals;

14.4 B. clearly define the responsibilities of the organization, the local government
14.5 units, and other entities for carrying out the implementation actions;

14.6 C. define the organization's process for evaluating implementation of local
14.7 water plans and procedures to address a local government unit failing to implement its
14.8 local water plan or parts of its local water plan; and

14.9 D. include a procedure to establish an advisory committee, committees, or other
14.10 means of public and technical participation acceptable to the board, for the purpose of
14.11 making recommendations on a ten-year plan amendment.

14.12 Subp. 2. Capital improvement program. Each plan must consider the feasibility of
14.13 implementing structural solutions for attaining the goals defined under part 8410.0080
14.14 that cannot be resolved by nonstructural, preventative actions. Each plan must include
14.15 a table for a capital improvement program that identifies structural and nonstructural
14.16 alternatives that would lessen capital expenditures and sets forth, by year, details of each
14.17 contemplated capital improvement that includes the need, schedule, estimated cost, and
14.18 funding source. The information may be combined with subpart 1, item A. In assigning
14.19 priorities, consideration must be given to federal, state, regional, local, and private
14.20 partners and regional and state plans.

14.21 Subp. 3. Operation and maintenance programs. The plan must define who is
14.22 responsible for inspection, operation, and maintenance of storm water infrastructure,
14.23 public works, facilities, and natural and artificial watercourses and specify any new
14.24 programs or revisions to existing programs needed to accomplish the goals defined under
14.25 part 8410.0080.

15.1 Subp. 4. **Information and education program.** Each plan must provide for an
15.2 information and education program in consideration of the goals defined under part
15.3 8410.0080. The program must, at a minimum, include the purpose, targeted audiences,
15.4 and actions. An annual communication must be distributed to residents of the organization
15.5 in compliance with Minnesota Statutes, section 103B.227, subdivision 4.

15.6 Subp. 5. **Data collection programs.** Each plan must address whether established
15.7 water quality, water quantity, and other monitoring programs implemented by the
15.8 organization and others are capable of producing an accurate evaluation of the progress
15.9 being made toward the goals defined under part 8410.0080. The programs shall, at a
15.10 minimum, include the location of sampling, the frequency of sampling, the proposed
15.11 parameters to be measured, and the requirement of periodic analysis of the data. Each
15.12 organization must annually submit the collected data consistent with state compatibility
15.13 guidelines to the appropriate state agency for entry into public databases.

15.14 Subp. 6. **Regulatory program.** Controls or performance standards must be
15.15 described in the plan, although an organization's rules in place at the time of plan approval
15.16 may be referenced instead. The plan must specifically describe how the organization's
15.17 controls will be implemented in coordination with local official controls. The plan must
15.18 clearly distinguish between the responsibilities of the organization and the affected
15.19 local government units relative to controls established according to this subpart. The
15.20 enforcement process for violations of controls of the organization must be defined.
15.21 Controls must take effect within two years of plan adoption by the organization. The plan
15.22 must include an assessment of existing controls within the organization's jurisdiction and
15.23 address any deficiencies or redundancies related to attaining the goals defined under part
15.24 8410.0080. If a plan notes the existence of certain land uses that could adversely affect the
15.25 organization's ability to achieve the goals defined under part 8410.0080, the organization
15.26 must provide written notification to that unit of government specifying the issue. The
15.27 following items must be considered in developing a regulatory program:

16.1 A. standards or controls that may be more restrictive than those required by the
16.2 Wetland Conservation Act determined to be necessary to achieve the goals defined under
16.3 part 8410.0080. Local wetland management controls must include maps or inventories of
16.4 wetlands, existing comprehensive wetland protection and management plans, descriptions
16.5 of existing local wetland banking programs, and procedures used in determining
16.6 replacement of wetland functions and values for evaluating wetland replacement proposals;

16.7 B. standards or controls for managing storm water runoff must, at a minimum,
16.8 address:

16.9 (1) erosion and sediment transport to receiving waters;

16.10 (2) nutrient loading and concentration; and

16.11 (3) maximum permissible runoff rates and volumes;

16.12 C. standards or controls to address flood impacts; and

16.13 D. management programs establishing a classification system for the
16.14 management of water bodies must be consistent with chapter 7050. If the organization
16.15 classifications are inconsistent, the organization must petition the Pollution Control
16.16 Agency to revise the classifications in chapter 7050.

16.17 Subp. 7. Incentive programs. The plan must define, for cost share or grant programs,
16.18 if any, the general purpose, scope, time period, amount of funds, funding source, general
16.19 eligibility criteria for dispersing funds, and a clear link to the goals the program addresses.

16.20 Subp. 8. Waters restoration and protection program.

16.21 A. A plan may implement a restoration and protection program for waters that
16.22 are impaired or need to be protected. The program may involve monitoring, assessment,
16.23 and water quality restoration and protection actions.

16.24 B. An organization may take the lead on developing a total maximum daily load
16.25 (TMDL) or a TMDL implementation plan as a third party under Minnesota Statutes, section

17.1 114D.25, subdivision 5. The TMDL or TMDL implementation plan must be developed in
17.2 coordination with, and provided to, the Pollution Control Agency for review and approval.

17.3 C. An organization may take the lead on developing a watershed restoration and
17.4 protection strategy as described in Minnesota Statutes, section 114D.15, by entering into
17.5 an agreement with the Pollution Control Agency.

17.6 D. An organization may submit a request as a third party for a Category 4b
17.7 determination to the Pollution Control Agency as allowed under the federal Clean Water
17.8 Act, section 303(d).

17.9 Subp. 9. Trading programs. An organization may establish and implement an
17.10 environmental trading program that allows for water-related impacts to be offset at
17.11 different locations than the site of impact.

17.12 Subp. 10. Local water plans.

17.13 A. An organization plan must specify to what degree the organization plan may
17.14 be adopted by reference by a local government unit for all or part of its local water plan.
17.15 Upon request of a local government unit, an organization must provide a list to the local
17.16 government unit and the plan review agencies of local water plan revisions necessary for
17.17 compliance with the organization plan. A local water plan may serve as a storm water
17.18 pollution prevention program if it is approved by the Pollution Control Agency and it
17.19 complies with the requirements of any applicable national pollutant discharge elimination
17.20 system/state disposal system storm water permit.

17.21 B. A plan must include a schedule for implementation of local water plans
17.22 that requires all local water plans to be adopted not less than one year but no more than
17.23 two years before the local comprehensive plan is due. A plan must not deviate from the
17.24 schedule. Extensions of local comprehensive plan due dates do not alter the schedule.
17.25 Organizations may extend all or portions of local water plans to align with the local
17.26 comprehensive plan schedule during the initial three years of transition to the revised rule.

18.1 Notwithstanding local water plan schedules in previously approved plans, all local water
18.2 plans must be adopted according to this subpart after December 31, 2016.

18.3 **8410.0140 PLAN ~~CONTENTS~~; AMENDMENTS.**

18.4 Subpart 1. **Amendment section.**

18.5 A. Each plan must contain a section entitled "Amendments to Plan" containing
18.6 the year the plan extends to and establishing the process by which ~~interim~~ amendments, as
18.7 defined in this part, may be made and who may initiate the amendments.

18.8 B. A plan must extend at least five years but no more than ten years from the
18.9 date the board approves the plan.

18.10 C. An organization must evaluate the implementation actions in its plan with the
18.11 annual activity report under part 8410.0150, subpart 3, item E, at a minimum of every two
18.12 years. If changes to the implementation actions are necessary as a result of the evaluation,
18.13 then a plan amendment is required unless otherwise provided under subpart 1a.

18.14 Subp. 1a. Changes not requiring an amendment. These changes to plans must be
18.15 distributed according to subpart 5 with a version showing deleted text as stricken and new
18.16 text as underlined. Amendments to plans are not required for changes such as:

18.17 A. formatting or reorganization of the plan;

18.18 B. revision of a procedure meant to streamline administration of the plan;

18.19 C. clarification of existing plan goals or policies;

18.20 D. inclusion of additional data not requiring interpretation;

18.21 E. expansion of public process; or

18.22 F. adjustments to how an organization will carry out program activities within
18.23 its discretion.

19.1 Subp. 2. **General Amendment procedure.** All amendments to a plan must adhere
19.2 to the review process provided in Minnesota Statutes, section 103B.231, subdivision 11,
19.3 except when the proposed amendments ~~constitute~~ are determined to be minor amendments
19.4 and according to the following provisions:

19.5 A. ~~the watershed management organization has held a public meeting to explain~~
19.6 ~~the amendments and published a legal notice of the meeting twice, at least seven days and~~
19.7 ~~14 days before the date of the meeting; the board has either agreed that the amendments~~
19.8 are minor or failed to act within five working days of the end of the comment period
19.9 specified in item B unless an extension is mutually agreed to with the organization;

19.10 B. ~~the organization has sent copies of the amendments to the affected local units~~
19.11 ~~of government, the Metropolitan Council, and the state review agencies plan review~~
19.12 authorities for review and comment allowing at least 30 days for receipt of comments, has
19.13 identified the minor amendment procedure is being followed, and directed that comments
19.14 be sent to the organization and the board; and

19.15 C. no county board has filed an objection to the amendments with the
19.16 organization and the board within the comment period specified in item B unless an
19.17 extension is mutually agreed upon by the county and the organization;

19.18 ~~E~~ D. ~~the board has either agreed that the amendments are minor or failed to act~~
19.19 ~~within 45 days of receipt of the amendments; the organization has held a public meeting to~~
19.20 explain the amendments and published a legal notice of the meeting twice, at least seven
19.21 days and 14 days before the date of the meeting; and

19.22 E. the amendments are not necessary to make the plan consistent with an
19.23 approved and adopted county groundwater plan.

19.24 Subp. 3. [See repealer.]

20.1 Subp. 4. **Form of amendments.** Draft and final amendments must be bound paper
20.2 pages unless a receiving entity agrees in advance to receive an amendment in electronic
20.3 format. Draft amendments must show deleted text as stricken and new text as underlined.
20.4 Unless the entire document is reprinted, all final amendments adopted by the organization
20.5 must be printed in the form of replacement pages for the plan; with each page of which must:

20.6 A. ~~on draft amendments being considered, show deleted text as stricken and~~
20.7 ~~new text as underlined;~~

20.8 B. ~~be~~ renumbered as appropriate; and

20.9 C. ~~include~~ each page including the effective date of the amendment.

20.10 Subp. 5. **Distribution of amendments.** Each organization must maintain a
20.11 distribution list of agencies and individuals who have received a copy of the plan ~~and.~~
20.12 An organization shall distribute copies of amendments to all on the distribution list and
20.13 post the amendments on the organization's Web site within 30 days of adoption. ~~All~~
20.14 ~~organizations should consider sending drafts of proposal amendments to all plan review~~
20.15 ~~authorities to seek their comments before establishing a hearing date or commencing~~
20.16 ~~the formal review process.~~

20.17 **8410.0150 ANNUAL REPORTING AND EVALUATION REQUIREMENTS.**

20.18 Subpart 1. **Requirement for annual ~~financial~~, activity, and audit reports.**

20.19 A. An organization shall annually:

20.20 (1) within 120 days of the end of the watershed management organization's
20.21 fiscal calendar year; each organization shall submit to the board a financial report, submit
20.22 to the board an activity report; for the previous calendar year; and

20.23 (2) within 180 days of the end of the organization's fiscal year, submit to
20.24 the board and the state auditor's office an audit report for the preceding fiscal year if it
20.25 the organization has expended or accrued funds during this time, except as provided

21.1 in Minnesota Statutes, section 6.756. When a county or city audit report contains the
21.2 financial statements for an organization, the organization must submit to the board
21.3 excerpts from the audit report concerning the organization within 30 days of completion
21.4 of the audit report. The audit report must be prepared by a certified public accountant or
21.5 the state auditor in the format required by the Government Accounting Standards Board.

21.6 B. These ~~The~~ reports may be combined into a single document. ~~The audit~~
21.7 ~~report for the preceding fiscal year must be prepared by a certified public accountant or~~
21.8 ~~the state auditor and forwarded to the state auditor's office within 120 days of the end of~~
21.9 ~~the fiscal year.~~

21.10 Subp. 2. [See repealer.]

21.11 Subp. 3. **Content of annual activity report.** The annual activity report must include
21.12 the following information:

21.13 A. ~~a list of the organization's board members, advisory committee members, and~~
21.14 ~~board member vacancies at the end of the reporting year, including the names of designated~~
21.15 ~~officers and members and information on how members can be contacted, and indicating~~
21.16 the governmental organization that each board member represents for joint powers
21.17 organizations and the county that each member is appointed by for watershed districts;

21.18 B. ~~a list of organization employees and consultants, including mailing addresses~~
21.19 ~~and telephone numbers~~ identification of a contact person capable of answering questions
21.20 about the organization including a postal and electronic mailing address and telephone
21.21 number;

21.22 C. an assessment of the previous year's annual work plan that indicates whether
21.23 the stated ~~goals and objectives~~ activities were achieved and, ~~if they were not achieved,~~
21.24 ~~indicates why they could not be achieved~~ completed including the expenditures of each
21.25 activity with respect to the approved budget unless included in the audit report;

- 22.1 D. ~~a projected work plan and budget for the next current year indicating the~~
22.2 ~~desired goals and objectives specifying which activities will be undertaken;~~
- 22.3 E. ~~a summary of the permits or variances issued or denied under ordinances~~
22.4 ~~or rules required by the organization or local plan and any enforcement actions initiated~~
22.5 ~~by either the organization or its local units of government; at a minimum of every two~~
22.6 ~~years, an evaluation of progress on goals and the implementation actions, including the~~
22.7 ~~capital improvement program, to determine if amendments to the implementation actions~~
22.8 ~~are necessary according to part 8410.0140, subpart 1, item C, using the procedures~~
22.9 ~~established in the goals and implementation sections of the plan under parts 8410.0080,~~
22.10 ~~subpart 1, and 8410.0105, subpart 1;~~
- 22.11 F. a summary of ~~water quality~~ significant trends of monitoring data collected by
22.12 ~~the organization or its local units of government~~ required by part 8410.0105, subpart 5;
- 22.13 G. ~~an evaluation of the status of local plan adoption and implementation based on~~
22.14 ~~a review of the local unit of governments' activities by the organization during the past year;~~
- 22.15 H G. a copy of the ~~written annual~~ communication required by part 8410.0100
22.16 8410.0105, subpart 3 4;
- 22.17 H. the organization's activities related to the biennial solicitations for interest
22.18 proposals for legal, professional, or technical consultant services under Minnesota
22.19 Statutes, section 103B.227, subdivision 5;
- 22.20 I. an evaluation of the status of local water plan adoption and local
22.21 implementation of activities required by the watershed management organization
22.22 according to part 8410.0105, subpart 1, items B and C, during the previous year;
- 22.23 J. ~~an assessment of changes in fund balances, including a description of the~~
22.24 ~~costs of each program element with respect to the overall annual budget; and~~

23.1 ~~J.~~ J. the status of any locally adopted wetland banking program, ordinances or
 23.2 rules required by the organization including their enforcement; and

23.3 K. a summary of the permits and variances issued or denied and violations
 23.4 under rule or ordinance requirements of the organization or local water plan.

23.5 Subp. 3a. Watershed management organization Web sites. An organization shall
 23.6 have a Web site that, at a minimum, contains the location, time, agenda, and minutes
 23.7 for organization meetings; contact information for the organization including a person
 23.8 capable of answering questions about the organization; the current watershed management
 23.9 plan; annual activity reports and audits for the past three years; rules and regulatory
 23.10 program, if any; a list of the organization's board members including identification of
 23.11 designated officers and the governmental organization that each board member represents
 23.12 for joint powers organizations and the county that each board member is appointed by
 23.13 for watershed districts; and a list of employees including postal and electronic mailing
 23.14 addresses and telephone numbers. The Web site shall be kept current on a monthly basis
 23.15 or more frequently.

23.16 Subp. 4. Procedure for state audit. The board shall use the procedure described in
 23.17 items A to D to determine whether to order a state financial or performance audit of an
 23.18 organization.

23.19 [For text of item A, see M.R.]

23.20 B. The executive director shall determine whether there is a basis for a
 23.21 complaint before reporting the complaint to the board. The executive director shall ensure
 23.22 that the affected organization is and the plan review agencies are notified of the complaint
 23.23 and given an opportunity to respond to, or comment on, the allegations before determining
 23.24 whether there is a basis for the complaint.

23.25 C. If the executive director determines there is a basis for the complaint, the
 23.26 complaint shall be reported to the board. The affected organization shall be given an

24.1 opportunity to appear before the board at the time the complaint is reported to it board's
24.2 dispute resolution committee established under Minnesota Statutes, section 103B.101,
24.3 subdivision 10, and respond to the allegations in the complaint. The complainant shall
24.4 also be given an opportunity to ~~appear~~ be heard.

24.5 D. After ~~having the complaint reported to it, and after~~ providing an opportunity
24.6 for the organization and the complainant to be heard ~~by it,~~ the board shall decide whether
24.7 to order a state financial or performance audit of the organization. The cost of state
24.8 financial and performance audits shall be paid for by the organization.

24.9 **8410.0160 ~~GENERAL~~ PLAN STRUCTURE.**

24.10 Subpart 1. Requirement. Each local water plan must, at a minimum, meet the
24.11 requirements for local water management plans in Minnesota Statutes, section 103B.235,
24.12 and this part, except as provided by the watershed management organization plan under
24.13 part ~~8410.0110~~ 8410.0105, subpart ~~3~~ 10. ~~Each local plan must include sections containing~~
24.14 ~~a table of contents; purpose; water resource related agreements; executive summary;~~
24.15 ~~land and water resource inventory; establishment of goals and policies; relation of goals~~
24.16 ~~and policies to local, regional, state, and federal plans, goals, and programs; assessment~~
24.17 ~~of problems; corrective actions; financial considerations; implementation priorities;~~
24.18 ~~amendment procedures; implementation program; and an appendix.~~

24.19 Subp. 2. Local comprehensive plan. ~~Each community should consider including~~
24.20 its local government unit must include the local water plan as a chapter of its local
24.21 comprehensive plan. Each local plan shall be adopted within two years of the board's
24.22 approval of the last organization plan that affects local units of government. All local
24.23 comprehensive plans must be consistent with local water plans adopted under this part.

24.24 Subp. 3. Plan contents. Each local water plan, in the degree of detail required in the
24.25 organization plan, must contain the following:

24.26 A. an executive summary that summarizes the highlights of the local water plan;

25.1 B. appropriate water resource management-related agreements that have
25.2 been entered into by the local community must be summarized, including joint powers
25.3 agreements related to water management that the local government unit may be party
25.4 to between itself and watershed management organizations, adjoining communities, or
25.5 private parties;

25.6 C. the existing and proposed physical environment and land use must be
25.7 described. Drainage areas and the volumes, rates, and paths of storm water runoff must be
25.8 defined. Data may be incorporated by reference as allowed under parts 8410.0060 and
25.9 8410.0105, subpart 10, or the local comprehensive plan;

25.10 D. an assessment of existing or potential water resource-related problems
25.11 must be summarized. The problem assessment must be completed for only those areas
25.12 within the corporate limits of the local government unit and similar to the process under
25.13 part 8410.0045, subpart 7; and

25.14 E. a local implementation program through the year the local water plan extends
25.15 must describe nonstructural, programmatic, and structural solutions to problems identified
25.16 in item D. The program must not jeopardize achievement of the goals of an organization's
25.17 plan. The implementation components must be prioritized consistent with the principles
25.18 of part 8410.0045, subpart 1, item A. Local water plans must prioritize the implementation
25.19 components of an organization plan consistent with the organization priorities set forth
25.20 under part 8410.0105 only for implementation components that must be facilitated by
25.21 the local government unit. Local official controls must be enacted within six months of
25.22 approval of the local water plan by the organization. The program shall:

25.23 (1) include areas and elevations for storm water storage adequate to meet
25.24 performance standards or official controls established in the organization plan;

25.25 (2) define water quality protection methods adequate to meet performance
25.26 standards or official controls in the organization plan and identify regulated areas;

26.1 (3) clearly define the responsibilities of the local government unit from that
26.2 of an organization for carrying out the implementation components;

26.3 (4) describe official controls and any changes to official controls relative to
26.4 requirements of the organization's plan;

26.5 (5) include a table that briefly describes each component of the
26.6 implementation program and clearly details the schedule, estimated cost, and funding
26.7 sources for each component including annual budget totals; and

26.8 (6) include a table for a capital improvement program that sets forth,
26.9 by year, details of each contemplated capital improvement that includes the schedule,
26.10 estimated cost, and funding source.

26.11 Subp. 4. Amendment procedures. A section entitled "Amendments to Plan" must
26.12 establish the process by which amendments may be made. The amendment procedure
26.13 shall conform with the plan amendment procedures in the organization plans that affect
26.14 the community.

26.15 Subp. 5. Submittal and review. After consideration and before adoption, the local
26.16 water plan or local water plan amendments shall be submitted for review according to
26.17 Minnesota Statutes, section 103B.235.

26.18 Subp. 6. Adoption and implementation. Each local water plan shall be adopted
26.19 not less than one year but no more than two years before the local comprehensive plan is
26.20 due. Extensions of local comprehensive plan due dates do not alter the local water plan
26.21 schedule. Each local water plan must be adopted and implemented in accordance with
26.22 the time requirements of Minnesota Statutes, section 103B.235, subdivision 4. Each
26.23 local government unit must notify affected organizations and the Metropolitan Council
26.24 within 30 days of adoption and implementation of the local water plan or local water plan
26.25 amendment, including the adoption of necessary official controls.

27.1 **8410.0180 DETERMINATIONS OF FAILURE TO IMPLEMENT.**27.2 [For text of subp 1, see M.R.]

27.3 Subp. 2. ~~Establishing cause~~ Petition. ~~Before the board's involvement in~~
27.4 ~~determinations of whether a plan is being properly implemented, The board shall first may~~
27.5 ~~establish just cause for the determination~~ determining whether a plan is being properly
27.6 implemented by review of a written complaint ~~from an aggrieved party or through~~
27.7 ~~conclusions arrived at by board staff under the review of an organization's annual report.~~
27.8 ~~A complaint or appeal made by an aggrieved party under Minnesota Statutes, section~~
27.9 ~~103B.231, subdivision 13, petition.~~ A petition may be made by a plan review agency,
27.10 board staff, a local government unit, or 50 residents with land in the area that is subject to
27.11 the petition. A petition must be made in writing to the executive director of the board and
27.12 must summarize the issues at dispute and the efforts the party made to resolve the problem.

27.13 Subp. 3. ~~Board staff responsibilities~~ Petition review process.

27.14 A. ~~Board staff may investigate issues relating to alleged failure to implement~~
27.15 ~~plans primarily by response from written complaint from an aggrieved party or by review~~
27.16 ~~of the organization's annual report. Within 30 days of receiving a written complaint~~
27.17 ~~petition, board staff are required to~~ send a copy to the plan review agencies and initiate
27.18 ~~a preliminary investigation of the facts as they appear based on personal observation,~~
27.19 assessment including a review of all relevant documents, review of comments from the
27.20 plan review agencies, and discussions with involved parties. The results of ~~this~~ the
27.21 preliminary investigation assessment shall be reviewed with the executive director, ~~and~~
27.22 ~~the board's legal counsel if appropriate, before preparation of a report. The report shall~~
27.23 ~~ascertain whether a failure to implement exists, define the exact nature of the failure to~~
27.24 ~~implement, and recommend a course of action.~~ and a report prepared if the executive
27.25 director determines just cause exists. Just cause may be established if no annual report
27.26 or audit has been submitted compliant with the requirements in part 8410.0150, or if a

28.1 plan has not been amended according to part 8410.0140, subpart 1, item C. Just cause may
28.2 be established for other reasons according to subpart 3a. The executive director of the
28.3 board may combine multiple petitions involving the same organization and process as one
28.4 decision. If the executive director determines just cause does not exist, the petitioner, the
28.5 organization, and the plan review agencies shall be provided written notice of the decision.
28.6 The executive director may require more frequent reporting and thorough evaluation than
28.7 required under part 8410.0150.

28.8 B. ~~On completion of a report regarding a complaint or review of an annual~~
28.9 ~~report, the staff shall send a copy of its report by certified mail to the organization~~
28.10 ~~members of record to set a time and place for a meeting agreeable to all parties to~~
28.11 ~~informally discuss the contents of the report if a conflict exists. The complainant and~~
28.12 ~~any other aggrieved or affected party shall also be sent a copy of the report by certified~~
28.13 ~~mail and shall be invited to attend any meeting held to discuss the report. If just cause is~~
28.14 ~~established, board staff shall conduct further investigation and prepare a report. The report~~
28.15 ~~shall conclude whether a failure to implement exists, define the exact nature of the failure~~
28.16 ~~to implement, and recommend a course of action. The report shall be sent to the petitioner,~~
28.17 ~~the organization, the plan review agencies, and affected local governments. Board staff~~
28.18 ~~shall provide written notification to all those to whom it sent the report of the time and~~
28.19 ~~location of a meeting to discuss the contents of the report.~~

28.20 C. ~~The affected organization shall be~~ is allowed 30 60 days after the meeting
28.21 in item B to hold a public meeting hearing to develop a formal course of action if the
28.22 ~~joint powers agreement requires that process. Any~~ and send a formal response shall be
28.23 ~~sent by certified mail to the board and any known aggrieved or affected party within~~
28.24 ~~15 days of the meeting parties.~~

28.25 D. ~~The affected organization and any aggrieved or affected party may not~~
28.26 ~~appeal to the board's dispute resolution committee established under Minnesota Statutes,~~

29.1 ~~section 103B.101, subdivision 10, to hear and resolve disputes over plan implementation~~
29.2 ~~until after the meeting has been held according to item B.~~

29.3 ~~E. Based on information discovered at the meeting held according to item B, or~~
29.4 ~~receipt of the formal response received from the organization according to item C, board~~
29.5 ~~staff shall report to the board at a regular meeting as to the status of the dispute. If the~~
29.6 ~~board needs to take further action to resolve the dispute, board staff shall recommend the~~
29.7 ~~appropriate course of action, consulting with the board's legal counsel as appropriate.~~

29.8 Subp. 3a. Criteria and standards for determinations. In making a determination
29.9 on the petition, the board must consider:

29.10 A. whether the joint powers agreement and watershed management plan
29.11 complies with this chapter and Minnesota Statutes, section 103B.211, subdivision 1;

29.12 B. whether the organization is actively implementing a plan that has been
29.13 approved by the board within the previous ten years. At a minimum, the organization is
29.14 addressing its priority issues in the plan, is carrying out its implementation actions, has a
29.15 current monitoring program to assess whether progress is being made on goals, and has
29.16 made progress on goals for the priority issues;

29.17 C. whether the organization is actively implementing the actions adopted in
29.18 its plan that were derived from a county groundwater plan that has been approved by the
29.19 board and adopted by the county;

29.20 D. whether the organization has a contact person that is capable of answering
29.21 questions about the organization and able to assist local governments and citizens in
29.22 resolving their concerns;

29.23 E. whether the organization submits annual activity reports and audits that
29.24 comply with the requirements in part 8410.0150;

30.1 F. whether an evaluation under Minnesota Statutes, section 103B.102, of an
30.2 organization's performance, financial, and activity information resulted in any corrective
30.3 actions or areas of concern;

30.4 G. whether the organization sufficiently implemented the actions in its previous
30.5 plan and made progress on attaining the goals in its previous plan;

30.6 H. whether the organization maintains a Web site that complies with part
30.7 8410.0150, subpart 3a; and

30.8 I. any other factors pertinent to the petition.

30.9 Subp. 4. **Board responsibilities Determinations.**

30.10 A. ~~On receipt of the board staff's report and recommendations, the board is~~
30.11 ~~required to do any or all of the following information under subpart 3, items B and~~
30.12 C, the board may:

30.13 (1) ~~do nothing further if the staff's investigation finds~~ recommendation is
30.14 that the subject plan is being properly implemented, provided the board concurs;

30.15 (2) advise board staff to conduct additional fact finding it considers
30.16 necessary and report back to the board accordingly;

30.17 (3) ~~order the dispute resolution committee to convene to attempt to~~
30.18 ~~negotiate the matter and to advise the board further; or~~ direct the organization to develop
30.19 an amended plan within a reasonable time period;

30.20 (4) direct staff or the dispute resolution committee to attempt to resolve the
30.21 matter and to advise the board further; or

30.22 (4) (5) issue findings of fact and conclusions of its investigation advising
30.23 the affected organizations, county, or counties of the documented failure to implement the
30.24 subject plan and advise the appropriate unit of government ~~of~~ to complete its responsibility

31.1 ~~to implement the plan~~ under Minnesota Statutes, section 103B.231, subdivision 3,
31.2 paragraph (b) or (c), within a prescribed period of time.

31.3 B. The board shall provide written notice of the determination to the petitioner,
31.4 the organization, other local governments, and the plan review agencies.

31.5 B.C. On issuance of its findings under ~~subpart 3~~, item A, subitem (5), the board
31.6 shall notify the appropriate counties to proceed as required by Minnesota Statutes, section
31.7 103B.231, subdivision 3, paragraph (b) or (c), as applicable. If a county fails to act after it
31.8 is notified, the board shall notify state agencies that they may initiate their prerogatives
31.9 responsibilities under Minnesota Statutes, section 103B.231, subdivision 3, paragraph (g).

31.10 ~~C. The board's dispute resolution committee has the following duties and~~
31.11 ~~responsibilities with respect to disputes relating to failure to implement a plan:~~

31.12 ~~(1) convene and hear appeals from both aggrieved parties and organizations~~
31.13 ~~not satisfied with the findings and recommendations of the board's staff report presented~~
31.14 ~~at the meeting required by subpart 2; and~~

31.15 ~~(2) convene at the pleasure of the board as prescribed by item A to attempt~~
31.16 ~~to negotiate and settle disputes over determinations relating to implementation of plans~~
31.17 ~~and to further advise the board.~~

31.18 Subp. 5. Appeal of determinations or decisions.

31.19 A. No appeal may be made to the board for the board's dispute resolution
31.20 committee established under Minnesota Statutes, section 103B.101, subdivision 10, to
31.21 hear and resolve disputes concerning plan implementation until after the procedures in
31.22 subpart 4 have been completed or until after the executive director has made a decision
31.23 that just cause does not exist under subpart 3, item A.

31.24 B. The determination of the board under subpart 4 or the decision of the
31.25 executive director that just cause does not exist under subpart 3, item A, is final if not

32.1 appealed to the executive director of the board within 30 days after the date on which the
32.2 notice of determination or decision is sent to those required to receive notice. A written
32.3 appeal may be made by the petitioner or the organization. Within 30 days after receiving
32.4 the appeal, the board, its dispute resolution committee, or its executive director must
32.5 decide whether to hear the appeal. An appeal may be denied and not heard if the board,
32.6 its dispute resolution committee, or its executive director decide the appeal is without
32.7 sufficient merit, trivial, or brought solely for purposes of delay.

32.8 C. After an appeal is granted, the appeal must be decided by the board within 60
32.9 days after submittal of written briefs for the appeal and conclusion of a hearing by the
32.10 dispute resolution committee. Parties to the appeal are the appellant and the organization.
32.11 The board or its executive director may elect to combine multiple appeals involving the
32.12 same organization and process as one decision. An appeal of a board decision may be
32.13 taken to the state Court of Appeals and must be considered an appeal from a contested case
32.14 decision for purposes of judicial review under Minnesota Statutes, sections 14.63 to 14.69.

32.15 Subp. 6. **Determination necessary for watershed district termination.** A
32.16 determination of failure to implement under subpart 4, item A, subitem (5), is necessary
32.17 before the board may terminate a watershed district under Minnesota Statutes, section
32.18 103B.221.

32.19 **REPEALER.** Minnesota Rules, parts 8410.0010, subpart 2; 8410.0020, subparts 4, 5, 10,
32.20 11, 12, 13, 19, and 24; 8410.0060, subparts 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11; 8410.0070;
32.21 8410.0080, subparts 4, 5, and 9; 8410.0090; 8410.0100; 8410.0110; 8410.0120;
32.22 8410.0130; 8410.0140, subpart 3; 8410.0150, subpart 2; and 8410.0170, are repealed.

State Rules 8410 Revision

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October 24, 2014

Portion of Rules	Reason for Comment	Suggested Change
8410.0140 subpt 4 – Plan Amendments	This section requires plan amendments be distributed as hard copies in most instances. All plan review agencies, WMO member cities and most others have the capacity to receive and print electronic documents. Moreover, electronic transmittal offers the benefits of synchronous submission/receipt and documentation of submission. Providing hard copies should be available upon request, not the default.	Draft and final amendments must be bound paper pages unless a receiving entity agrees in advance <u>may be transmitted electronically or by directing the receiving entity to the organization’s website where the materials are posted...</u> <u>Paper copies shall be provided whenever requested.</u>
8410.0140 Subpart 2AD – Minor Plan Amendments	This section adds a new requirement of a public meeting to explain minor amendments, including two legal notices at least 7 and 14 days before the meeting. While such notice is understandable for general amendments, it is likely unnecessary for minor amendments. An amendment is only deemed minor if BWSR, review agencies and the county are all notified and feel the proposed change is a minor amendment. In making this determination, they consider whether the change warrants a more rigorous public process. If they feel it is a minor amendment, why should there be more public notice than every other item on the meeting agenda?	D. the organization has held a public meeting to explain the amendments, <u>and a summary of the amendments under consideration was clearly stated on the meeting agenda</u> published a legal notice of the meeting twice, at least seven days and 14 days before the date of the meeting
8410.0150 subpart 3, K	This section requires the WMO’s annual report contain a summary of permits and variances “under rule or ordinance requirements of the organization or local water plan.” An organization issuing permits has this information at its finger tips and can quickly create a summary. But for WMOs who pass permitting responsibilities to municipalities this is onerous. WMO requirements that are passed down to cities may include water quality, stormwater management, wetland protection, and others. These may touch most development projects in a given city. Each city will have incorporated the WMO requirements into its ordinances and permitting in different ways. In order to comply with the reporting rule, a WMO would need to therefore get a summary of nearly all land use permits in each city and consolidate them into a	K. a summary of permits and variances issued or denied and violations <u>if the organization operates a permitting program. Organizations whose rules or requirements are implemented by municipalities shall report any complaints of municipal failure to properly execute those provisions.</u> under rule or ordinance requirements of the organization or local water plan.

Portion of Rules	Reason for Comment	Suggested Change
	<p>consistent format. Some WMOs have six or more member cities.</p> <p>Moreover, it is unclear what BWSR or the WMO will do with this information. Failure to implement city ordinances is often discovered through complaint investigation.</p>	
<p>8410.0150 Subpart 4D – Procedure for state audit</p>	<p>A new addition to this section is that the costs of state audits shall be paid by the organization. Comments and concerns include:</p> <ul style="list-style-type: none"> (a) The responsibility for watershed organization oversight is BWSR's, and BWSR is funded accordingly by the State. If BWSR lacks sufficient funding to carry out its oversight role, this should be addressed with the State Legislature, not charged to local governments. (b) Costs to correct organizational deficiencies should be borne by the organization. The cost to determine if there are deficiencies should not. (c) The costs the state may incur are outside the control of the WMO and unknown. (d) Requiring the watershed organization to pay all audit costs removes any financial incentive BWSR may have to conduct the audit expeditiously. 	<p>The cost of state financial and performance audits shall be paid for by the organization.</p>
<p>8410.0160 subpart 3 – Plan Contents</p>	<p>This section outlines content requirements for city/township <i>local</i> water plans. The section title is "Plan Structure." This is easily confused with watershed organization plan requirements which are handled earlier in the chapter.</p>	<p>Revise section title 8410.0160 General <u>Local Water Plan Structure</u></p>