

City of East Bethel

City Council Agenda

City Council Work Meeting – 7:00 p.m.

Date: January 28, 2015



Item

7:00 PM	1.0	Call to Order
7:31 PM	3.0	Adopt Agenda
7:32 PM	3.0	2014-15 Ice Arena Review
8:00 PM	4.0	Commission Duties
8:15 PM	5.0	City Council Minutes
8:45 PM	7.0	Adjourn



City of East Bethel City Council Work Meeting Agenda Information

Date:

January 28, 2015

Agenda Item Number:

Item 3.0

Agenda Item:

East Bethel Ice Arena

Requested Action:

Review 2014-15 Ice Arena Management Contract and Discuss Direction for the 2015-16 Season

Background Information:

The City of East Bethel managed and operated the City Ice Arena with City Staff from 1997 until 2006. From 2006 to 2008 the City contracted with the National Sports Center for management services for this facility. The National Sports Center declined to exercise their option to extend their contract at the end of the 2008 season. As a result, the City solicited other management proposals for operation of the facility and awarded a contract to Gibson Management Company, LLC for a one year period. Gibson Management’s contract was extended in 2009 to 2011 and another extension was granted in 2011 to 2014.

The City requested proposals for the Arena management in 2014 and the following firms responded

- 1.) Rink Management Services Corporation-Richmond, Virginia;
- 2.) National Sports Center-Blaine, Minnesota;
- 3.) North Metro Community Association-St. Francis, Minnesota; and,
- 4.) Gibson Management, LLC-Rochester, Minnesota.

Rink Management Services Corporation is a national company that manages approximately 40 rinks throughout the United States.

The National Sports Center manages 8 sheets of ice at their Blaine location and, as stated above, operated our rink from 2006 to 2008. Even though there was initial interest on their part, The National Sports Center informed the City that they would not be submitting a proposal for this management contract.

North Metro Community Association is a local non-profit 501(c)3 corporation composed of the Saint Francis Youth Hockey Association along with other youth sports groups and local business leaders that are dedicated to increasing participation in hockey participation as well as other sports. Prior to the meeting on May 7, 2014, this group also withdrew their proposal for consideration.

As a result of the interviews and analysis of the proposals, Gibson Management was awarded the management contract for 2014-2015. Gibson's contract will expire on July 31, 2015.

The City Ice Arena was able to post a positive fund balance for the first time in 2013. The goal of the City is to operate this facility at no less than a break-even point with no taxpayer subsidies.

Aside from the outsourcing the management of the Arena to an independent contractor as we have done since 2006, the City could consider the following alternative options:

- Leasing the facility outright
- Hire a contract manager and operate the facility under the umbrella of the City.

The major issue with leasing is protecting the City's investment in the facility and establishing responsibilities for maintenance of the equipment. Directly contracting the management as a City function, while a consideration, could create a position and role that has the potential to expand well beyond its anticipated purpose and produce an additional level of management and possible expense.

Even though the Ice Arena Fund is now in a positive cash position due to improved internal management and cell tower lease income that was assigned to this fund, the net revenue from the Arena has declined over the past three years. Revenues, excluding concessions and tower lease payments, have fallen from \$224,824 in 2011 to \$209,382 in 2012 and to \$202,092 in 2013.

While the Arena provides opportunities to East Bethel youth and high school players, it also serves these same youth groups in St. Francis, Linwood and Oak Grove. We estimate that approximately 30 per cent of those served in these programs are East Bethel residents and the majority of the participants are non-residents. The fees paid by these groups cover all operational expenses but do not meet all depreciation costs. The depreciation deficit had been covered by the City from cell tower lease revenue. The amount of the lease revenue was \$68,062 in 2013. This amount was the lease income (\$38,062) and the signing bonus for renewing the cell tower lease (\$30,000). Of this amount \$19,540 was required to balance the depreciation line item of the budget of the Arena Fund. Lease income in 2014 from the cell tower will be \$39,203 and the payment for 2015 has been assigned to the City General Fund.

Keep in mind that depreciation line item costs are monies that we owe ourselves. Their purpose is to create a fund to replace the facility, serve as reserve to cover unanticipated maintenance expenses and/or capital improvements costs. In addition, the funds used to operate the Arena are not assigned from those funds generated by the City levy. Arena funds are user fees, essentially other people's money, and not those of City taxpayers.

In order to meet anticipated costs we project that we need the following minimum revenues (based on 2013 Operating Costs) to break even for the Arena operation:

<u>2013</u>	<u>2014</u>	<u>2015</u>
\$230,000	\$240,000	\$255,000

Assuming that locker rental, concession, dry floor events, vending and ad revenues are unchanged from their 2013-2014 total of \$12,800 (see attached Arena Budget) , we would have to increase or prime time rate to \$207/hr. to achieve \$231,000 in revenues based on no increase in sale of hours of non- prime ice time. Based on rates of surrounding facilities this increase could potentially drive our current users to other facilities and further decrease our revenue stream for the facility. Future rate increases may be required but should be considered incrementally and in proportion to increases for the facilities listed below. In conjunction with

any future rate increases, improvements to the facility should be incorporated to provide value for the fees and visible examples of enhancements that will showcase the attractiveness of the facility.

<u>Facility</u>	<u>Prime Time Rate</u>	<u>Non-prime Rate</u>
National Sports Center (8 sheets)	\$200/hr.	
Forest Lake (2 sheets)	\$200/hr.	\$140
Andover (single sheet)	\$192	\$145
East Bethel (single sheet)	\$192	\$140
Isanti (single sheet)	\$190	\$140

We currently have 1,178 hours of prime ice time available and sold 1,049 hours for the 2013-2014 Season. Our current breakdown of sales was 89% of the prime time hours sold and no sales for non-prime hours in 2013. For 2014-15, through January, our ice rental sales are \$152,739.36. Our projections for ice sales for the 2014-15 budget were \$220,500 and we are on pace to reach approximately \$192,000 in sales.

Other costs that must be considered are the long term maintenance and capital improvements associated with the facility. At some point there will be expenses to repair and/or replace the refrigerant equipment, restroom renovation, roof and parking lots and to perform numerous interior and exterior improvements. Once estimates for these projected costs are prepared, ice time rates could be pro-rated adjusted accordingly to reflect these capital costs, or the current value for depreciation, based on the cost of construction (\$1,520,395), could be written off and the current depreciation balance and accumulating future funds for this item be placed in an escrow account to cover these future expenses.

In order to meet our financial goals for the facility, we are attempting to achieve, at a minimum, the following:

- Maximize the sale of prime-ice time and set a goal of selling 95% of available time
- Negotiate the cost of the non-prime hours to increase the potential for additional sales
- Check existing agreements to determine if locker rental rates can be increased
- Negotiate minimum requirements in the management contract for generation of revenues for dry floor events and ad sales in management contracts
- Provide incentives for sales of ads and non-prime hours over a set limit in management contracts
- Phase incremental rate increases to produce additional sources of revenue
- Develop a Capital Improvement Plan to identify future building needs, costs and revenues to finance these required upgrades
- Seek ways to reduce the management fee for the Arena or ensure that management fee is linked to the generation of a specific dollar amount over and above this fixed cost
- Improve the attractiveness of the facility to enhance sales of ice time and use and provide additional value for fee increases

Discontinuing the operation of the Arena would be an alternate option. A sale of the facility, if there are no provisions to prevent this action, would remove the City from the Arena operations business and generate funds that could be applied to our water and sewer debt or economic development activities. It would also place this property on the tax rolls if it were sold to a private entity. This property has a tax valuation of \$953,000 but its true market value may be significantly less for another use. The building was designed as an Ice Arena and the costs of conversion to a secondary use may diminish the value of the building. If the sale of the building

is considered, access to and the acreage for the MnDOT Park and Ride and Cell Tower Site would have to be excluded from the purchase offering.

Should a decision be made to sell the facility we need, at a minimum, to consider the following:

- Consider the community impact of closing the facility as an Ice Arena/public event site
- Provide ample time for the current users of the facility to find other facilities
- A professional appraisal of the facility would be required which could cost approximately \$3,000
- Establish a market value sale price.

Should a sale/discontinuance of the use as an indoor ice arena be considered it could be:

- The outright sale of the property
- Closing the facility and marketing the building as an industrial/commercial property that could be part of an incentive plan to attract a user.

Other options which may be considered are

- Leasing the facility to a/the user(s)
- Hire a contract manager and run the facility under the umbrella of the City.

Both of these options would provide a means to initially reduce costs but could have consequences that may be more expensive in the long run. The major issue with leasing is protecting the City's investment in the facility and establishing responsibilities for maintenance of the equipment. Directly contracting the management as a City function, while a consideration, could create a position and role that has the potential to expand well beyond its anticipated purpose and produce an additional level of management and possible expense.

The following are the current issues we encounter for maximizing the use of the building for an Ice Arena/Public Event Site Facility

- Location in relation to the North Metro Market Area
- Single Sheet of Ice and lack of size to attract other activities
- Space for expansion of the facility is very restricted
- No Air Conditioning
- Approximately 14,000 SF is utilized for and divided into spaces that can only be used for bleachers, office, rest and dressing rooms, lobby and mechanical rooms
- Decline in participation rates for youth hockey
- Signage.

The City has established the goal of making the Arena a self sufficient operation for the 2014-2015 Season. To accomplish this goal, Gibson Management would have to increase the sale of prime ice time from 1,049 hours to 1,100 hours, increase the sale of non-prime ice time by 50 hours and, at a minimum maintain, the current rates received for lockers, ads, concessions, vending and dry floor events at \$12,800 or any combination of these revenue sources that would produce \$230,000 net to the City. This recommendation assumes the management contract meet projected depreciation costs.

Proposed Revenue Sources 2014-2015

Ice Sales	
1100 hours @ \$192/hr (prime)	\$211,200
50 hours @ \$120/hr (non-prime)	6,000
Locker Rental	7,500
Ads	1,500
Dry Floor Events	1,400

Vending	500
Concession/Vending Rental	<u>2,000</u>
	\$230,100*

*Expenses for the 2013-2014 Season were \$223,631.90 (includes \$71,894.94 for depreciation)

Moving forward to subsequent seasons we would have to sell 100% of the prime ice hours, maximize the revenue from the other sources listed above and implement rate increases for ice rental to meet the goals of maintaining this as a completely self-sufficient facility. There will come a point time where necessary rate increases may be counter to ability for the sale of ice time. It appears that we could operate the facility for another year at a break even proposition but unless adjustments are made in depreciation or management charges, we could be faced with continuing to absorb or write off a portion of the depreciation cost of this operation.

The City of St. Francis has approved funds for a feasibility study for a Community Center. An indoor ice rink would be part of their consideration, however, the study is not complete and the recommendations of the study and intent of the City are not known at this time. Should the study recommend and the City of St. Francis approve such a facility, then we would have to examine continuing the operation of the Ice Arena. Until we know the direction of the City of St. Francis on their proposed Community Center Project, we are limited as to commitments for improvements and what we need to do from a management standpoint of our facility.

We feel that the Arena has a value to the City. It is a symbol and point of identity, draws people from outside East Bethel into the City and provides an attraction and service that is associated with developing and developed Cities.

From a Staff standpoint, the following is a review of Gibson’s performance to date:

- operation of the day to day activities of the Arena during the hockey season has been satisfactory
- Their knowledgeable of the existing facility and its operational requirements has been good
- Response to issues concerning the facility has been reasonable and satisfactory
- Support Staff (Jon Barry) has been very cooperative and no problem to work with
- Communication record has been less than satisfactory in relation to posting of schedules and updating of websites but they have made improvement in this area during this contract period
- Their marketing performance has been less than our expectations

Staff is requesting that Council consider options for contracting the management services of this facility for 2015-2016 or longer duration.

Attachments:

- 1.) 2015 Ice Arena Budget
- 2.) Gibson Management Contract Agreement
- 3.) Rental Entities Summary

Fiscal Impact:

As noted above.

Recommendation(s):

Staff is seeking direction as to management of the Arena for 2016 and beyond

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

City of East Bethel
2015 Budget

	Account Description	2013 Actual	2014 Actual	FY 2015 Budget
Arena Operations				<i>*Based on 1148</i>
				<i>Prime hours sold at</i>
				<i>\$192 per hour</i>
Revenues				
	R 615-36210 Interest Earnings	2.23	56.49	-
	R 615-36240 Refunds/reimbursements	-	551.87	-
	R 615-37920 Vending Machine Sales	499.85	266.99	500.00
	R 615-38060 Ice Rental Revenues	191,300.28	190,840.92	220,500.00
	R 615-38062 Dry Floor Events	1,350.00	1,397.00	1,500.00
	R 615-38064 Concession Rental	2,000.00	3,000.00	2,000.00
	R 615-38065 Locker Room Rental	7,500.00	7,500.00	7,500.00
	R 615-38066 Advertising Revenue	1,450.00	2,500.00	2,000.00
	R 615-38067 Tower Lease Payments	68,062.68	39,065.52	-
Total Revenues - Arena		272,165.04	245,178.79	234,000.00
Expenditures				
	E 615-49851-211 Cleaning Supplies	-	508.73	-
	E 615-49851-212 Motor Fuels	1,799.89	2,491.21	2,000.00
	E 615-49851-219 General Operating Supplies	443.74	610.59	500.00
	E 615-49851-223 Bldg/Facility Repair Supplies	2,048.56	2,689.79	4,000.00
	E 615-49851-231 Small Tools and Minor Equip	105.81	811.75	1,000.00
	E 615-49851-307 Professional Services Fees	86,072.20	89,739.83	79,000.00
	E 615-49851-321 Telephone	1,503.83	942.84	1,500.00
	E 615-49851-342 Legal Notices		15.38	
	E 615-49851-381 Electric Utilities	33,163.18	23,450.40	33,000.00
	E 615-49851-382 Gas Utilities	16,537.40	16,485.99	20,000.00
	E 615-49851-385 Refuse Removal	1,076.74	2,077.87	2,000.00
	E 615-49851-402 Repairs/Maint Machinery/Equip	2,318.93	1,849.33	3,000.00
	E 615-49851-403 Bldgs/Facilities Repair/Maint	6,291.52	12,071.97	15,000.00
	E 615-49851-422 Auto/Misc Licensing Fees/Taxes	230.16	570.53	1,000.00
	E 615-49851-433 Dues and Subscriptions	145.00	250.00	-
	E 615-49851-481 Depreciation Expense	71,894.94	71,894.94	72,000.00
Total Expenditures - Arena		223,631.90	226,461.15	234,000.00
Net Income - Arena		48,533.14	18,717.64	-

**CONTRACT AGREEMENT BETWEEN
THE CITY OF EAST BETHEL
AND GIBSON MANAGEMENT COMPANY, LLC.**

This Agreement ("Agreement") is effective the 1st day of August, 2014 to July 31, 2015, is between the City of East Bethel, 2241-221st Avenue NE, East Bethel, Minnesota 55011, a Minnesota municipal corporation, hereinafter called the "City," and Gibson Management Company, LLC, PO Box 18, East Bethel, Minnesota 55011, a Minnesota corporation, hereinafter called the "Contractor." City and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1. The Agreement

1.1 The Contractor will perform the following management services for the City:

The Contractor agrees to furnish management services for management of the East Bethel Ice Arena and perform the following functions, duties, and obligations in connection therewith:

- Provide an on-site manager, all necessary operational part time staff, and provide worker's compensation insurance covering all its employees.
- Ensure that the manager will be at the Arena full time September 1 through March 31. The manager will be at the Arena as necessary for the adequate performance of this Agreement April 1 through August 31.
- Market, sell, schedule, invoice, and ensure collection of all payments for all ice rental and dry floor events. All payments will be made directly to the City. Copies of all invoices will be provided to the City immediately upon preparation by the Contractor. All executed contracts, insurance paperwork, and payments must be provided to the City at least 10 days before a client is allowed to enter the Arena.
- Provide commercial general liability insurance coverage in the amounts of \$500,000.00 per claim, \$1,500,000.00 for any number of claims per occurrence, with the City of East Bethel named as an additional insured on the policy.
- Manage all concessions activities, including purchasing all concession merchandise and supplies.
- Market, sell, manage and ensure display of all advertising including interior and exterior signage. All executed contracts and payments will be forwarded to the City before signage is installed.
- Manage the budget for all operations, revenues, and costs.
- Assist in the preparation of the annual budget with assistance from the City.
- Manage all short term maintenance projects and activities.
- Provide guidance and planning to the City for current and planned capital improvements.
- Maintain the interior of the Arena, the ice surface, and the exterior walkways; all emergency exits must be kept clear of ice and snow.
- Secure and protect the artificial turf from the elements in a visually attractive manner when it is not installed in the arena. When the turf is installed, all protective tarps and lumber will be stored in a visually attractive manner.

- Secure all buildings when not in use. Contractor will be liable for any damages, thefts or costs resulting from failure to lock the compressor building or from failure to arm the Arena alarm system when the Arena is unoccupied. Contractor will take full responsibility for the actions of clients that are allowed unsupervised access to the Arena.
- Provide maintenance and mechanical staff on an as-needed basis.
- Ensure that any costs incurred for maintenance of the outdoor rink are fully covered by related revenues or approved in advance by the City.
- Meet monthly or as needed with City staff to discuss and resolve any issues.
- Engage and meet with the St. Francis Hockey Association, currently the Ice Arena's largest customer, to facilitate greater levels of use by them, accommodate their reasonable needs and engage them as a marketing resource.
- Establish and maintain a web site for Arena information, operations and scheduling as approved by the City.
- Maintain reasonable accounting practices and software with books of record that will allow the city to audit and review all financial transactions of the Ice Arena operations called for within this contract.

1.2 The City will be responsible for the following:

- Maintain the building exterior and the property grounds including snow plowing the parking areas and mowing the grassy areas adjacent to the facility.
- Finance reasonable capital improvements necessary to ensure continued, uninterrupted operation of the Arena for all user groups.
- Provide space in the City newsletter and city reader board for Arena advertising.
- Maintain insurance coverage at the statutory limits for property, boiler, machinery, business interruption, and commercial general liability.
- Assist the Contractor with preparation of an annual operating budget.
- Pay all necessary Arena operating expenses except items used/consumed in the Concession Area.

ARTICLE 2. Contract Price and Payment

2.1 The amount to be paid for the Contractor's management fee, all wages, payroll taxes, worker's compensation costs and any other payroll-related costs, including all travel, meeting and training expenses will be \$79,000 (\$9,000 per month for August through March and \$1,750 per month for April through July) for the contract year August 1, 2014 to July 31, 2015. Ice rental revenue will be shared 50/50 after \$220,500 is secured for the calendar year. Advertising revenue must be secured in amount of \$2,000 for each calendar year with a revenue share of 50/50 occurring after that amount is met.

2.2 The Contractor will rent and operate the concession area in the Arena for \$2,000 per contract year and is due by December 15th. Contractor will be responsible for purchasing all products consumed and used in the Concession area.

Rental includes use and maintenance of concession equipment as follows:

- Cash Register-with point of sale software
- Refrigerator
- Microwave
- Pizza oven
- Popcorn Machine

- Nacho Cheese Machine

Should equipment listed need replacement, as deemed necessary by the City; Contractor will be responsible for 50% of the replacement cost. Equipment will remain property of the City.

The City will obtain the Food Establishment License from Anoka County and will be reimbursed from the Contractor for the License fee.

ARTICLE 3. Term

- 3.1 The term of this Agreement is August 1, 2014, to July 31, 2015. This Agreement may be extended for an additional time period subject to performance of the Contractor and with the written agreement of the City.

ARTICLE 4. Contractor's Representations

- 4.1 In order to induce the City to enter into this Agreement, the Contractor makes the following representations:
- 4.1.1 The Contractor has visited the East Bethel Ice Arena and become familiar with and is satisfied as to the Arena conditions that may affect performance of this Agreement.
- 4.1.2 The Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect performance of this Agreement.

ARTICLE 5. Fair Employment Practices Required

- 5.1 The Contractor will comply with Section 103 and 107 of the "Contract Work Hours and Safety Standards Act" (40 USC 327-333) as supplemented by Department of Labor Regulations contained in 29 CFR Parts 3, 5 and 5a.
- 5.1.1 Section 103 of the Act provides that laborers or mechanics of the Contractor will receive compensation on the basis of a standard work week of forty hours. Work in excess of the standard work week is permissible, provided the worker is compensated at a rate not less than one and one-half times the basis rates of pay for all hours worked in excess of forty hours in any work week.
- In the event of a violation, the Contractor will be liable to any affected employee for unpaid wages as well as to the appropriate government agency for liquidated damages.
- Section 5 of the Federal Labor Standard Provisions, Housing and Urban Development Form 4010 sets forth in detail the Section 103 requirements.
- 5.1.2 Section 107 of the Act provides that laborers or mechanics of the Contractor will not be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to their health and safety, as determined under construction, safety, and health standards promulgated by the Secretary of Labor.

- 5.2 The Contractor will comply with all Federal and State anti-discrimination laws. To this end the Contractor agrees to comply with Section 202 of Executive Order 11246 of September 24, 1965, in which the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action will include, but is not limited to the following: employment, upgrading, demotion, or transfer; recruitment; advertising; layoff or termination; rates of pay or other compensation; and selection of training, including apprenticeships.
- 5.2.1 The Contractor will send each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the Contractor's commitment under Section 202 of Executive Order 11246 of September 24, 1965, and will post copies of the notice in conspicuous places, available to employees and applicants for employment.
- 5.2.2 The Contractor will state, in all solicitations or advertisements for employment placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

ARTICLE 6. Miscellaneous

6.1 Assignment of Agreement

No assignment by a party hereto of any rights under or interests in this Agreement will be binding on another party without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement.

6.2 Successors and Assigns

The City and the Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained this Agreement.

6.3 Severability

Any provision or part of this Agreement held to be void or unenforceable under any Law or Regulation will be deemed stricken, and all remaining provisions will continue to be valid and binding upon the City and the Contractor, who agree that the Agreement will be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

6.4 Insurance

The Contractor will maintain during the entire term of this Agreement the following insurances with at least the indicated amounts of coverage and provide the City a certificate of insurance showing such coverage's before providing any services under this Agreement: (1) commercial general liability insurance coverage with a policy limit of at least \$500,000.00 per claim and \$1,500,000.00 for any number of claims arising out of a single occurrence; and (2) worker's compensation insurance. The Contractor's insurance provider shall provide the City with written notice at least 30 days in advance of any changes to the insurance coverage as provided for in the Certificate of insurance provided by the Contractor including but not limited to termination of such coverage by the Contractor for any reason.

6.5 Independent Contractor

The Contractor acknowledges and agrees that it is an independent contractor and that nothing herein will be construed to create the relationship of employer and employee between the City and the Contractor. No employee related withholdings or deductions will be made from payments due the Contractor. The Contractor will not be entitled to receive any benefits from the City and will not be eligible for workers' compensation or unemployment benefits. The Contractor will at all times be free to exercise initiative, judgment, and discretion in how best to perform or provide the services identified herein.

6.6 Default

The occurrence of any of the following will constitute default by the Contractor and, if not corrected within ten days after the City provides the Contractor notice of the default, will allow the City to terminate the Agreement: (1) failure to adequately perform or deliver the required services; (2) failure to follow the specifications or standards established by this Agreement; (3) failure to perform or complete the services in a timely fashion as established by the City; (4) bankruptcy; (5) making a material misrepresentation; (6) persistently disregarding laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction; (7) failure to satisfactorily perform this Agreement; or (8) failure to perform any other material provision of this Agreement. The City may lawfully terminate the Agreement if, after providing the Contractor ten days notice of the default, the Contractor does not correct the situation. Upon default of this Agreement by the Contractor, the City may withhold any payment due the Contractor for purposes of set-off until such time as the exact amount of damages due are determined. Such withholding will not constitute default or failure to perform on the part of the City.

6.7 Remedies

6.7.1 Default or breach of this Agreement by the Contractor will entitle the City to seek remedies under law and as provided by this Agreement. In the event this Agreement is terminated by reason of default by the Contractor, the City may recover the necessary costs of termination, including but not limited to, administrative, attorneys' fees, and legal costs, from the Contractor. Except when caused by circumstances beyond the parties' control, if the Contractor fails to perform in accordance with the specifications, terms, and conditions of this

Agreement, the City will have the right to purchase the services from other sources on the open market. The City may deduct as damages from any money due or coming due to the Contractor the difference between the Contractor's price and the higher price or the costs of replacement services.

6.7.2 Any remedies available to the City are cumulative and not exclusive. The seeking or exercising by the City of a remedy does not waive its right to seek or exercise any other remedy available to it at law, in equity, by statute, or under this Agreement.

6.8 Indemnification

The Contractor will indemnify and hold harmless the City and its agents and employees from and against all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from the performance of this Agreement, provided that any such claim, damage, loss, or expense (1) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting there from, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, anyone directly or indirectly employed by the Contractor, or anyone for whose acts the Contractor may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder.

6.9 Record Availability and Retention

The Contractor agrees that the City or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Contractor and invoice transactions relating to this Agreement.

Contractor agrees to maintain these records for a period of three (3) years from the date of termination of this Agreement.

7.0 This Agreement is subject to the Minnesota Government Data Practice Act, Minnesota Statutes Chapter 13 (Data Practices Act). All government data, as defined in the Data Practices Act Section 13.02, Subd 7, which is created, collected, received, stored, used, maintained, or disseminated by Contractor in performing any of the functions of the City during performance of this Agreement is subject to the requirements of the Data Practice Act and Contractor shall comply with those requirements as if it were a government entity.

7.1 Processing of Payments

Prior to processing of any and all payments to the Contractor pursuant to this Contract, compliance with East Finance Department regulations on the completion and filing of W-9 forms and other IRS and MN Department of Revenue taxing forms is required.

7.2 Nondiscrimination

During the performance of this Agreement, the Contractor agrees to the following:

No person shall, on the grounds of race, color, religion, age, sex, disability, marital status, public assistance status, criminal record, creed or national origin be excluded from full employment rights in, participation in, be denied the benefits of or be otherwise subjected to discrimination under any and all applicable federal and state laws against discrimination.

7.3 Possession of Firearms on Ice Arena Premises

Unless specifically required by the terms of this contract, no provider of services pursuant to this contract, including but not limited to employees, agents or subcontractors of the Vendor or Contractor shall carry or possess a firearm on City premises or while acting in service of this contract with the City pursuant to the terms of this agreement. Violation of this provision shall be considered a substantial breach of the Agreement; and, in addition to any other remedy available to the City under law or equity are grounds for immediate suspension or termination of this contract.

IN WITNESS WHEREOF, the City and the Contractor have signed this Agreement in duplicate, One Counterpart each has been delivered to the City and the Contractor.

City of East Bethel

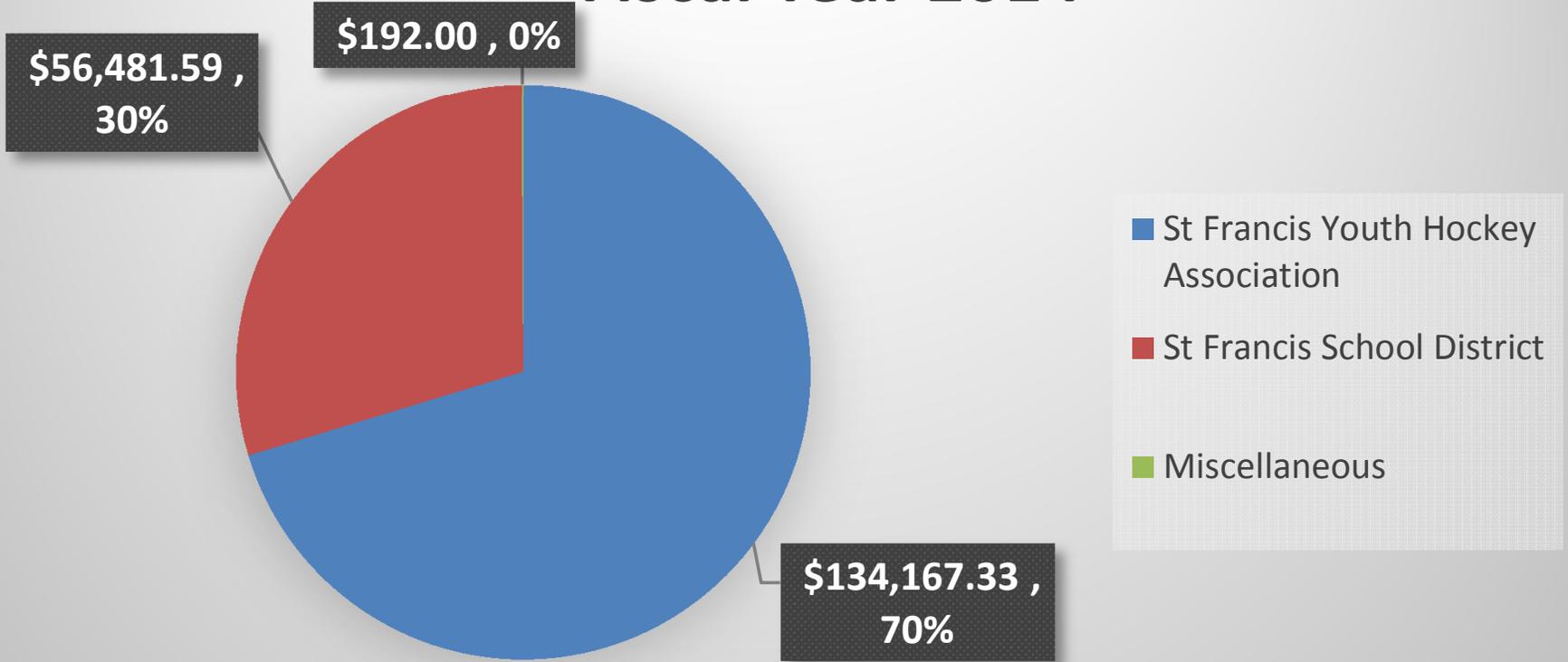
Gibson Management, LLC

By: _____
Bob DeRoche, Mayor

By: _____
Todd Gibson, Owner

By: _____
Jack Davis, City Administrator

Ice Arena Ice Sales by Entity Fiscal Year 2014





City of East Bethel City Council Work Meeting Agenda Information

Date: January 28, 2015

Agenda Item Number: Item 4.0

Agenda Item:

Council/Commission/Authority Roles, Duties and Guidelines

Requested Action:

Discuss the Role and Authority of Council, Commissions and Authorities

Background Information:

City Council requested that the role of Commissions and Authorities and their activities and relationship to City Council be discussed. The purpose of this discussion is to explore means to insure that all groups are delivering the same message and to coordinate the responsibilities of each of these groups.

As part of the discussion, the following are some considerations that may be of interest:

- Schedule a joint meeting of the Planning Commission and EDA with the City Council on at least an annual basis to discuss visions and goals
- Include a Planning Commission/EDA update as part the City Council Agenda
- Consider adopting a Code of Conduct that would be applicable to all Commissions, Authority, Council and Staff to define expectations for the conduct of City business

Attachments:

Attachment 1, Sample Guideline

Fiscal Impact: To be determined

Recommendation(s):

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

 COUNCIL DIRECTIVE	Adopted: 2001 Revised: 6/13/12	Number: CD-COUNCIL-2.5
	Mayor:	City Administrator:
	For: City Council and Commissions	
	Subject: Council and Commission Roles and Guidelines	

PURPOSE

The purpose of the document is to outline the main roles, duties, and authority of the Council and Commissions. This document also establishes general guidelines for decorum of the governing bodies such as proper procedure during meetings, best practices to represent Council and the community, and other state and local laws that apply.

POLICY

City Council Role and Authority

The City Council is the chief governing body of the City whose responsibility it is to see that the City is properly exercising its functions, fulfilling the duties law imposes, and not exercising powers which it does not legally possess. The City Council, as a body, has 12 major areas of authority and responsibility. These are:

1. judging the qualifications and election of its own members,
2. setting and interpreting rules governing its own proceedings,
3. exercising all the statutory powers of cities,
4. legislating for the City,
5. directing the enforcement of City ordinances,
6. appointing or hiring administrative personnel,
7. transacting city business,
8. overseeing the City’s financial operations,
9. appointing members of the boards, commissions, committees, and task forces conducting the City’s inner governmental affairs,
10. protecting the general health, welfare and safety of the City and its inhabitants,
11. providing guidance to the EDA and HRA, and
12. providing community leadership

The most important single responsibility of individual Council members is participation at Council meetings and workshops. As individuals, Council members have no administrative authority; they cannot give orders or otherwise supervise City employees unless the Council specifically directs them to do so. As a Council, however, Council members should devote their official time to issues of basic policy and to acting as liaisons between the City and the general public. Council members should be concerned, not only with the conduct of current affairs, but also with the future development and welfare of the City.

Commission Role and Authority

City Commissions have a primary role to advise the City Council in the creation and evolution of City policies and procedures. In particular instances, governing bodies may facilitate public participation in order to fully develop a recommendation to the City Council.

City staff members are available to provide general assistance to Commissions. City Commissions are not involved in the administration or operation of City departments. Commissions may not conduct major studies, or establish official policy without the approval of the City Council.

Despite Commissions' differing tasks, all share some basic responsibilities. Members need to stay informed on subjects of interest to their specific commission. Conscientious attendance is also a fundamental responsibility, as irregular attendance lessens one's ability to study all aspect of items under consideration.

Guidelines

During meetings, members shall preserve order and decorum and shall obey the rules of the governing body. Governing bodies are expected to conduct meetings implementing Robert's Rules of Order (11th edition). Discussions shall be conducted in an orderly fashion. Private conversation between members during meetings is inappropriate. Members also should not privately communicate with any member of the public including other governing body members and staff via electronic means during a public meeting.

A member once recognized, shall not be interrupted while speaking unless called to order by the chair, or the speaker chooses to yield to questions from another member. All members shall accord the utmost courtesy to each other, to city employees and to the public appearing before the body. Members shall also refrain at all times from rude and derogatory remarks. Members shall confine their remarks to the issues before the body and shall not attempt to revisit or reopen issues already addressed and settled with one exception: a member of the prevailing side on an issue may move for formal reconsideration of that issue.

Citizens and staff attending meetings shall also observe the same rules of propriety, decorum and good conduct applicable to Council/Commission members. Any person making personal, impertinent, or slanderous remarks or anyone who becomes boisterous while addressing the body or while attending the meeting shall be asked by the mayor/chairperson to conduct themselves properly and if they fail to do so shall be asked to leave the room.

If the governing body conducts public hearings, members shall not express their views on a proposal until after a public hearing is closed. Members' comments and questions shall not suggest a position. After a public hearing is closed, members shall be invited to discuss their views on the proposal. Members shall apply City Council and Commission Guidelines and Practices to achieve win-win solutions whenever possible.

Outside of deliberations, it is a member's responsibility to present views and recommendations representing the governing body as a whole. Members expressing views not represented by the majority of the body shall identify them as such.

Public statements shall not include promises that may be construed to be binding on the City, governing body or staff. When making a public statement, members shall indicate that Commission actions are recommendations and that final action will be taken by the City Council. Additionally, members of a governing body shall follow the guidelines on electronic communications CD-COUNCIL-2.7.

Public officials and representatives on governing bodies shall follow Minnesota State Statute 10A.07 Conflicts of Interest and Minnesota State Statute 10A.09 Statements of Economic Interest.

The success or failure of a governing body's efforts may be dependent upon the degree of cooperation evident among the individual members of the body; therefore members shall work to establish a good relationship with each other.

Each member shall keep in mind these important points:

- Show respect for another's viewpoint.
- Allow others adequate time to fully present their views before making comments.
- Be open and honest.
- Make new members welcome and help them become acquainted with their duties.

Members shall not vote on, nor participate in the discussion of, issues in regard to which the member has a conflict of interest. Conflict of interest is generally defined as having a personal financial interest in the outcome. Further information can be obtained from the City Attorney by contacting the City Administrator.

Members are also expected to consider issues in terms of the good of the City as a whole and should, as much as possible, be perceived as considering issues on this basis. To this end, members are requested to publicly disclose any relationships to parties involved in an issue or possible perceived conflicts which might be viewed as impacting their ability to objectively consider an issue before them.

The City of Woodbury does not discriminate on the basis of race, color, national origin, sex, religion, age, sexual orientation or disability in the admission or access to, or treatment or employment in, its programs, activities, or services. Members of a governing body must adhere to this city policy.

All local officials in the State of Minnesota, including appointed commissioners, are required to adhere to Minnesota Statute 471.895 which states that "an interested person may not give a gift or request another to give a gift to a local official. A local official may not accept a gift from an interested person". A complete description of this law is available in the administration department.

Non-adherence to these guidelines may be subject to review by the City Council.

Resolution Adopting CD-COUNCIL-2.5 Council Roles and Guidelines

Resolution No. 12-79



City of East Bethel City Council Work Meeting Agenda Information

Date:

January 28, 2015

Agenda Item Number:

Item 5.0

Agenda Item:

City Council Minutes

Requested Action:

Discuss the format of City Council Minutes

Background Information:

The format of City Council minutes will be open for discussion. One primary item of concern is the recording of quoted remarks in the minutes. These remarks may or may not be the exact quote of the maker and Council will discuss means of addressing this issue and any other concerns with City Council minutes.

Attachments:

Fiscal Impact:

To be determined

Recommendation(s):

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____