

EAST BETHEL CITY COUNCIL MEETING

December 5, 2012

The East Bethel City Council met on December 5, 2012 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Heidi Moegerle Steve Voss

MEMBERS EXCUSED: Bill Boyer Richard Lawrence

ALSO PRESENT: Jack Davis, City Administrator
Mark Vierling, City Attorney
Craig Jochum, City Engineer

Call to Order **The December 5, 2012 City Council meeting was called to order by Acting Mayor Moegerle at 7:30 PM.**

Adopt Agenda **Moegerle made a motion to adopt the December 5, 2012 City Council Agenda. Voss seconded, all in favor, motion carries.**

2013 Budget Hearing Davis explained that Minnesota Statute 275.065 requires cities to conduct a hearing whereat residents are offered the opportunity to provide input to City Council on proposed budgets and tax levies. The State requires that each City announce the date, time and place of the meeting whereat residents can provide City Council feedback on proposed budgets and levies. The date selected must be done at the meeting when the City Council adopts the preliminary budget and levy in September. This meeting date is also listed on the parcel specific notices for proposed 2013 taxes that the taxpayers received in November from Anoka County.

Council directed that December 5, 2012 as the regular meeting for this opportunity. City Council has afforded a number of occasions during the budget development process to residents for this input.

The 2013 Preliminary Budget has been available on the City's website and a paper copy has been at the city hall receptionist area since its adoption in September 2012. City Council has also reviewed the 2013 Preliminary Budget since adoption and has approved additional revenues of \$60,000 and expenditure reductions of \$47,090 in the General Fund Budget. These changes have reduced the preliminary tax levy by \$107,090 for General Fund & Debt from \$4,560,045 to \$4,452,955 or from a 1.4% increase in the levy to a decrease of .97% in the levy over 2012.

Later on this agenda, Council will have the opportunity to consider tax levies and budgets for 2013. Staff is recommending that Council hear and consider input from residents on the 2013 tax levies and 2013 budgets.

Moegerle opened the budget hearing to the public.

Diane Jacobson, 20628 East Bethel Blvd NE, "I am furious. When I came to the City Town Hall meeting and you told me I should be proud we have reduced your taxes. So, when I got my tax statement, I eagerly opened it. My value went down \$763 in market value, but you

increased my taxes.” Moegerle, “The City of East Bethel did not.” Jacobson, “East Bethel did, \$76.33.” Moegerle, “That was the preliminary budget which was an increase of 1.4%. We have now reduced the budget - .97% from last year.” Jacobson, “What is 1% of \$76?” Davis, “There is not always a corresponding decrease in City budgets and taxes.” Moegerle, “Mine went up too, but it wasn’t from the City.”

Jacobson, “As you know, I should not be here, this is my bingo night. I gave up bingo to be here, I am mad. Especially when you made a big deal to tell everyone at that meeting that the taxes were going down.” Moegerle, “We are on schedule to decrease the taxes. I understand that what we approved for the preliminary was an increase of 1.4%.” Jacobson “When will I get a notice of that?” Davis, “The preliminary notice you got, reflected the preliminary budget which increased 1.4%. Due to Council’s actions increasing revenue and decreasing expenditures it is now a decrease of .97%. Your final tax bill from Anoka County which will include City, County and School taxes you should receive in March.” Jacobson “So I won’t know what I am paying until I get that official notice. Thank you for nothing.” Moegerle, “We completely understand your concerns.”

The budget hearing was closed.

Anoka County
Highway
Department
Presentation –
Viking
Boulevard
Overlay

Davis explained the Anoka County Highway Department has been considering options for proposed improvements to Viking Boulevard from Highway 65 west to University Avenue. The proposed roadway improvements are partially located in the area adjacent to the sanitary sewer and watermain along Viking Boulevard that has not been installed. With the remaining portion of the uncompleted segment of the Municipal Utilities as a consideration, Anoka County and MCES began discussions regarding constructing both the roadway and utility projects in a joint effort to take advantage of the opportunity to correct the poor soils conditions in the project area to:

1. Reconstruct that section, delete piling by moving the sewer into the corrected soils area, and thus result in a more reliable and permanent roadway project;
2. Reduced potential future utility maintenance and operation costs; and
3. Reduce future potential utility relocation costs that would be incurred with any future roadway work.

The Anoka County Highway Department executes Joint Powers Agreements (JPA) for all their reconstruction projects. These JPA's define the project and cost, and construction and maintenance responsibilities of the parties. The important item for this JPA is the cost responsibility, which has been defined as a lump sum cost for the County and no cost to the City. S.R. Weidema will perform the mucking work on Viking Boulevard as a change order to their contract with the City and, as such, that requires the City to enter into the JPA with the Anoka County Highway Department.

The City would pay the contractor for the “City” portion of the work, but would invoice the Anoka County Highway Department for reimbursement for this cost. The net result would be no cost to the City and ultimately a \$69,000 credit on the MCES portion of the contract (see agenda item 8.0 B.2 Change Order 7).

Staff recommends approval of the Viking Boulevard Overlay Project Joint Powers Agreement.

Curt Kobilarcsik, Anoka County Project Engineer, “Last time I was up here was for the

County Road 74 project. We are very happy with how that turned out and hope the City is also very happy with how that turned out. We think it is a great safety improvement for the area. For tonight we wanted to give you some background information on the project and discuss the JPA.”

“Originally, this project was scheduled for extending from the railroad tracks to TH 65. It became apparent that it was too large to undertake. So now it runs from University to TH 65. This is scheduled to be a concrete whitetopping project, similar to what we did on the east side of TH 65 on County Road 22. We will mill off four inches of pavement and replace with six inches of concrete. As we got into the geotechnical part of the investigations, we found out that there were some large corrections that needed to be made out at this project. About 1500 feet west of TH 65 we found about 30 feet of unsuitable soils or “muck” as we call it. We were going to excavate and place lightweight aggregate and then place concrete pavement on top. As we started discussing (with MCES) the project, it became apparent that we could end up with a better final project if we entered into a partnership with them. We negotiated with them for months on the best solution for this area and we ended up with a unique partnership with them. We entered into a cost sharing solution. They will excavate it out and backfill with sand material. They will be placing their material on 30 feet of sand. The JPA is required on this project because of our unique relationship with MCES.”

“At west end of project, there are two 12 foot lanes with concrete paving, and eight foot shoulders with bituminous paving. The left turn on 5th Street will be a bypass lane for drivers heading eastbound. Move to east we have a cul-de-sac on Madison Street, this is for the potential closure of Madison Street. We have discussed this at a staff level. We will continue discussions about this. As we get to Crooked Brook, we need to replace culverts and we will replace them with concrete culverts. At Jackson we will put in left turn for west and east bound. Our project stops just before TH 65.”

“We will be holding an Open House on December 18th for the public to discuss any questions they have at that time. Along with this project we will have to close the road to thru traffic. It could be closed up to five months. We will have a detour, County Road 13 to County Road 86 to TH 65. As local residents, I am sure you will find your way on different city streets, but this is for others that may get confused about coming through the area. Construction on muck has to take place over the winter. This will be starting in January, this muck excavation and extending into May or June as well.”

“We are here tonight before you to discuss this JPA. This consists of three components, finalizing design, cost agreement and maintenance agreement. The design we just discussed. There is no cost to the City. We are entering into this agreement because of formalities with MCES. We will be making a payment to the City and then they will reimburse the MCES at a cap of \$1,824,768 for muck excavation and backfill. The MCES contractor will be proceeding with the excavation of that work. There is not a maintenance section in this because there is not a traffic signal, curb and gutter, storm sewer, so that has been taken out of the agreement.”

Moegerle, “In the recitals on page 6 and elsewhere, you indicated that it is agreed that in the layout of Exhibit A dated November 30 has been presented to the City Council. And it was supposed to be attached as Exhibit A and I did not get Exhibit A, along with the rest of the Council. Is what you just presented us Exhibit A?” Kobilarcsik, “Yes, this is Exhibit A. I can forward a smaller version to Jack. I can send a couple different scales to you.” Jacobson, “The little river waterway that starts in upper right, how are we handling that? Kobilarcsik,

“That is off the limits of our project.” Jacobson, “So no one will be disturbing that?” Kobilarcsik, “Not as part of our roadway project.”

Moegerle, “On page 7 the last sentence says, “The City shall provide all City utility easements to the County.” Will there be any easements conveyed?” Kobilarcsik, “We are working through that process now. We will be paying for the right-of-way and easements on this project.” Moegerle, “From the residents or City?” Kobilarcsik, “From the residents.” DeRoche, “At any point will 22 be opened for one lane going each direction like it was on the east side?” Kobilarcsik, “That is a good question. We are still working through that through the details of how we are going to handle that. We may be able to construct this half and half. We need to look at this and see if it is going to be a one way situation or if it can handle two-way traffic. At this point, I would almost assume it will be a one way direction for the local residents. Somewhat of a driveway let’s say.” DeRoche, “Because when 22 was closed on the east side, our City street Klondike took a beating.” Moegerle, “Davis are you satisfied that the detour they have listed will be able to withstand the additional traffic, unlike what Klondike did this year?” Davis, “We have an entirely different situation here. We have two streets that can accommodate this traffic. Both are paved streets and one is a nine ton street. We won’t have the same issues as before and for a lot of people the 13/86 route will be a shorter detour.” DeRoche, “Is that something we can have some extra patrols watch, because lots of times people will put the pedal to ground when this happens at first.” Voss said these are county roads. Davis, “We can certainly ask to have extra patrols.” Kobilarcsik, “We have had a lot of activity in East Bethel this last year and will be for the next year. We do apologize for the inconvenience, but we really think we will have a nice final product at the end of the day.” Voss said you mentioned the public meeting on the 18th. Kobilarcsik, “Yes at Our Saviour’s Lutheran Church.” Voss said that was going to be my next question.

Tom Ronning, Council Member elect, “When they were doing all the test digs for the sewer project, they dug to 35 feet and there was no bottom. So, is there a contingency plan if you don’t hit bottom at 30 feet?” Kobilarcsik, “We would have further discussions with the contractor and MCES at that point. But, right now, we have a lump sum agreement we have reached with the contractor on that portion of the roadway.” Moegerle, “So, assuming that this occurs and you still don’t find bottom at 35 or 40 feet, the City still doesn’t have any payment obligation to this. Correct?” Kobilarcsik, “That is correct.” Davis, “In the recital of the JPA under the costs it says ‘The City is anticipating to not have any cost sharing...’ Could you change that to ‘The City will not have any cost sharing...’” Kobilarcsik, “We can change this, yes. Although I like that word, anticipating.” Davis, “Also, in Article VII, it says prior to City payment to the County. If we could strike that.” Kobilarcsik, “That is a good catch. I will change that to County payment to the City.”

DeRoche made a motion to approve the Viking Boulevard Overlay Project Joint Powers Agreement. Voss seconded with the changes. DeRoche amended his motion to approve the changes. All in favor, motion carries.

Public Forum Moegerle opened the Public Forum for any comments or concerns that were not listed on the agenda.

Andy Westerberg, Anoka County Commissioner, “I just wanted to stop out and say a few things. The County is in great shape, we are doing incredible things. We are doing great things in East Bethel, the roads are in great shape. County Road 22 on the west side is beginning in January. I’m excited about that. It is going to bode well in getting where East Bethel wants to be. The speed study is critical on 22 and I would strongly support you doing

that. It will come before our next public works meeting at the County and I will be sure to support that. I am happy that the project on County Road 74 is done, and be sure and let your County Commissioners know if it is working well or not or if you are finding problems in other areas. I want to encourage you, as a City Council, to be concentrating on transportation issues. Consider paying attention to service roads throughout the City on the east and west side of Highway 65. It will be critical to the traffic here in your City. And, I think, you really want to emphasize that particular item and work towards improving that particular area.”

“As far as your City Council goes, you are doing an incredible job. Every single one of you and your staff. You are the ones in front and you are doing a good job of leading for your City and I appreciate that. It has been a pleasure to work for you as your County Commissioner. I want to encourage you, in the future, to continue to do that where you get that team, working together, the legislators, county commissioners, Met Council. Get them in here and get them active and to take ownership that this is a community that they are responsible for. That way you can continue to promote your City and get it to where you want it to be. The other thing you want to do is maximize your assets. System of transportation, having those two wonderful golf courses, having the biggest and best lake in Anoka County with Coon Lake. Continue to maximize your assets to help your City grow.”

“It has been a pleasure and an honor to serve as your County Commissioner over the last two years, I have really appreciated it. I have come to know a lot of you and I respect you and the job you are doing. I did not win re-election, so I will not be here as of January 1st, but I want you to know I will work very hard with the incoming commissioner to make sure there is smooth transition in helping your City to succeed.” Moegerle, “Thank you for your service, you have been at so many meetings and I appreciate all your help.” DeRoche, “Thank you for all your help.”

Ron Koller, Council elect, 18461 Jackson Street NE, “If any of you have driven down Jackson Street recently, they have pretty much finished the road other than the last overlay. And then they have put signs up and more signs up and more signs up.” Moegerle, “What kind of signs?” Koller, “You name it. Most of the people on Jackson Street have large driveways. In the twenty years I have been there, I have never really seen (every once in a while), there is a car parked in the street. Now, there is at least thirty ‘No Parking’ signs. It really looks terrible and I realize it was more taxpayer’s money. And they are putting up signs for a problem that never did exist. And it was a waste of money.” Jochum, “Unfortunately, it is a state aid route and to get state aid money, there are certain standards and you have to put up ‘No Parking’ signs.” Voss asked for how long. Davis, “That is something we can examine.” Jochum, “I appreciate the resident’s patience on that project. The mailboxes were supposed to go up Monday and the posts were all defective. We sent them back to fabrication and by Friday they should be back.” Koller, “They are all up.”

There were no comments so the Public Forum was closed.

Consent Agenda

Moegerle, “I believe the city attorney wanted to pull Item D) Joint Powers Agreement between Anoka County the Municipalities, Townships and School Districts in Anoka County to Allocate for Election Expenses?” Vierling, “Yes, I did.” **Voss made a motion to approve the Consent Agenda including:** A) Approve Bills; B) Meeting Minutes, November 21, 2012, Regular Meeting; C) Meeting Minutes, November 21, 2012 Work Meeting; ~~D) Joint Powers Agreement between Anoka County the Municipalities, Townships and School Districts in Anoka County to Allocate for Election Expenses;~~ E) Pay Estimate #17 for S.R. Weidema, Inc. for the Phase 1, Project 1, Utilities; F) Pay Estimate #9 for Municipal Builders, Inc. for Water Treatment Plant No. 1; G) Pay Estimate #2 for Rum River for

Jackson Street Reconstruction; H) Resolution 2012-71 Advanced Funding for Municipal State Aid Streets. **DeRoche seconded; all in favor, motion carries.**

Item D - Joint Powers Agreement between Anoka County the Municipalities, Townships and School Districts in Anoka County to Allocate for Election Expenses;

Vierling, “just a small technical amendment. There is a provision in Section 17 that requires the City to indemnify, as other members do, in the event of liability. And checking with the League of Minnesota Cities Insurance Trust we want to add a provision that any indemnity would be within the City’s existing insurance policy. I have checked with Council from the County and I don’t think they are against that. So, with that amendment, that should be able to be passed and go forward.” Moegerle, “And that will go for all the other thirty cities that are signing this probably? Did you inform them?” Vierling, “It is applied in a global provision for all, so I assume that is the intent, yes.”

Moegerle made a motion to approve Item D) Joint Powers Agreement between Anoka County the Municipalities, Townships and School Districts in Anoka County to Allocate for Election Expenses as amended by the city attorney. Motion failed for lack of a second.

Tom, Anoka County Attorney’s office, “We are not intending on amending the agreement that is before the Council. Is that correct?” Vierling, “No, I intend to amend it. Just to add the one provision to limit the indemnity to the scope of the City’s insurance coverage. I thought, when we talked earlier you understood that. But perhaps you didn’t.” Tom, “No, I thought you were talking about leaving it on the consent agenda as it was and amending your policy with the League of Minnesota Cities. This is not been an issue raised by the other cities. This has not been a concern. It would have to actually go back before the County Board and then also go back before all the cities. I am not exactly sure that the County would be willing to do that at this point. That has not been the direction I have been given in regards to this. The way that it stands right now is it is either an up or down agreement between the County and the City. If not, we are going to have to go back to square one and it might be that the City of East Bethel is without a Joint Powers Agreement with Anoka County.”

Moegerle made a motion to table Item D) Joint Powers Agreement between Anoka County the Municipalities, Townships and School Districts in Anoka County to Allocate for Election Expenses so we can get this resolved and we have some clarity on direction from our city attorney. DeRoche seconded; all in favor, motion carries.

Planning Minutes

Davis explained that the Planning Commission Meeting Minutes from November 27, 2012 are for your information and review.

Interim Use Permit – Home Occupation at 23310 Monroe Street – Jeff

Davis explained that the property owner/applicant is requesting an IUP for an asphalt maintenance/equipment sales business for the parcel located at 23310 Monroe St. NE. This application is similar to a temporary IUP that was granted to Gordon Hoppe at 189th Avenue for an excavation business on February 4, 2004. At the time of approval of Mr. Hoppe’s IUP, there were three employees, not counting Mr. Hoppe, working from that residence and his business traffic accessed the property through a residential area.

Kirkeby of Pavement Resources

Mr. Kirkeby’s business would generate a lower volume of traffic and the traffic from the business would flow directly to Jackson Street, a Municipal State Aid and a City arterial street. There would be no traffic through a residential area from Mr. Kirkeby’s business.

Mr. Kirkeby is making a legitimate attempt to comply with the Home Occupation Ordinance while seeking an alternate location for his business within the City. Mr. Kirkeby employs two

full time and five part-time employees at this location. However, upon relocation of the home occupation to another site, the number of employees will be reduced to less than the stipulated amount required by the Home Occupation Ordinance. For this reason, it was Planning Commission's recommendation that Mr. Kirkeby could be temporarily accommodated by restricting his home occupation business to require that no new employees would be operating from this address.

Mr. Kirkeby is requesting the IUP for this address to comply with City Ordinance to legally operate his business while he seeks another location outside a residential zone for Pavement Resources. Upon relocation to a new site, Mr. Kirkeby proposes to continue to utilize the Monroe Street address for equipment storage inside his existing facility.

Since the property is located in the shoreland district, Mr. Kirkeby will be required to have a septic compliance inspection. According to state building and fire codes, a Certificate of Occupancy is required when the occupancy of a commercial building is changed. Mr. Kirkeby will be required to comply with state building and fire codes. Satisfactory compliance will be determined by the fire and building departments.

Home occupations are a permitted use in the Rural Residential District, as long as the applicant can meet the requirements of the City Code and complies with the conditions of the IUP. This proposed home occupation will meet requirements of the ordinance if the IUP conditions are approved. In the event the conditions are not being met, the IUP would be revoked.

Planning Commission recommends approval to City Council for an Interim Use Permit in the RR- Rural Residential District for an asphalt maintenance/equipment sales business for the property known as 23310 Monroe St. NE, East Bethel, PIN 31-34-23-13-0013 with the following conditions:

1. Signage must comply with East Bethel City Code, Chapter 54, which states "for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet." Signs must be placed on the business property as directional signs are not allowed.
2. The structure must be inspected by the Fire Inspector on a yearly basis.
3. Business street parking shall be prohibited and business parking must be on the driveway.
4. The Interim Use Permit shall expire at the time the property changes hands and/or any of the prescribed stipulations have been violated.
5. Conditions must be met and an IUP Agreement executed no later than 30 days from the date of City Council approval of the IUP. Failure to comply will result in the revocation of the IUP.
6. The IUP will be issued for a period of one year from the date of Council approval. The IUP could be renewed for an additional term with the limits and conditions subject to City Council approval.
7. There will be no expansion of the current accessory building on the site.
8. There will be no additional employees utilized in the business from this site.
9. No additional equipment can be exteriorly stored on the property.
10. Outside storage is limited to essential business related material and personal possessions and is to be in compliance with Ordinance, 26-40, 26-52 and 26-110.
11. Business must not emit odors or noise to the extent that surrounding property owners are affected with the exception of vehicle back up alarm systems.

12. Hours of operation shall be from 6 a.m. to 7 p.m.

Moegerle, "One of the things I noticed is the hours of operation are 6 a.m. to 7 p.m. and you said in the Planning Commission meeting you don't start until 8:00 a.m.?" Kirkeby, "We leave in our vehicles to do the work off-site and sometimes we do leave at 6:00 a.m. or 7:00 a.m. in the morning. But we try not to run equipment in the yard area until 8:00 a.m." DeRoche, "You made reference to Mr. Hoppe. Was that because you see this going down the same road as Mr. Hoppe and having the same issues?" Davis, "The only reason I reference this is because the Home Occupations states that you can only have three employees including the owner. The reason I referenced Mr. Hoppe is because this was an IUP that was approved previously that exceeded this number. Mr. Kirkeby currently employs two full time and five part time people. City Council has previously approved the number of people that were permitted by ordinance." Moegerle, "I give you kudos for coming forward and getting your home occupation permit. A lot of people don't do that." Davis, "At the Planning Commission meeting, Mr. Kirkeby's immediate neighbor came and said he had no issues with him having an IUP for one year. He said he had been very cooperative with him about curbing any noise. Another neighbor also came and said he had no issues. This is entirely different." DeRoche, "The roads are able to handle this?" Davis, "These are MSA roads."

Moegerle made a motion to approve the request of Jeff Kirkeby for the property at 23310 Monroe Street NE, East Bethel, MN (PIN 31 34 23 13 0013) for an Interim Use Permit/Home Occupation in the RR- Rural Residential District for an asphalt maintenance/equipment sales business with the following conditions: 1) Signage must comply with East Bethel City Code, Chapter 54, which states "for home occupations, one identification sign is permitted, and the sign shall not exceed two square feet." Signs must be placed on the business property as directional signs are not allowed; 2) The structure must be inspected by the Fire Inspector on a yearly basis; 3) Business street parking shall be prohibited and business parking must be on the driveway; 4) The Interim Use Permit shall expire at the time the property changes hands and/or any of the prescribed stipulations have been violated; 5) Conditions must be met and an IUP Agreement executed no later than 30 days from the date of City Council approval of the IUP. Failure to comply will result in the revocation of the IUP; 6) The IUP will be issued for a period of one year from the date of Council approval. The IUP could be renewed for an additional term with the limits and conditions subject to City Council approval; 7) There will be no expansion of the current accessory building on the site; 8) There will be no additional employees utilized in the business from this site; 9) No additional equipment can be exteriorly stored on the property; 10) Outside storage is limited to essential business related material and personal possessions and is to be in compliance with Ordinance, 26-40, 26-52 and 26-110; 11) Business must not emit odors or noise to the extent that surrounding property owners are affected with the exception of vehicle back up alarm systems; 12) Hours of operation shall be from 6 a.m. to 7 p.m. DeRoche seconded; all in favor, motion carries.

Zoning
Interpretation
Request for
Jeff Kirkeby
of Pavement
Resources
at 21461
Aberdeen

Davis explained that Pavement Resources is a local company that is owned by Jeff Kirkeby and operates out of a residence at 23310 Monroe Street NE. Pavement Resources is a full service asphalt repair and maintenance company, serving Minnesota and Western Wisconsin and their specialty service is spray injection pothole and asphalt repair.

Mr. Kirkeby's business has expanded to the point that his residential location can no longer accommodate his needs and is seeking a location that will be compatible with his operation and permit the necessary space for the expansion of his business.

Street Zoning Request

Mr. Kirkeby is considering the property located at 21461 Aberdeen Street for his business. As part of his operation, Pavement Resources would utilize a portion of the parking area at the rear of the building to construct a detached accessory structure. Mr. Kirkeby would also be involved to some degree in retail sales and services at this location with his sales of de-icing products, equipment rentals and his offering of small engine repair service.

Staff and the Planning Commission have determined that this is a permissible B-2 use as the business does provide office offerings and some retail sales. However, there is an existing and screened parking area at the rear of the building that would be needed for overnight parking of trucks with over a 12,000 GVWR. City Code, Section 24-1, provides that vehicles over 12,000 GVWR are not exempt from exterior storage requirements. Since this is a parking rather than a storage issue, this can be addressed by consideration of a CUP to address this matter.

The use of this property by Mr. Kirkeby will convert a blighted and distressed commercial building into a use with an attractive store front, utilize a vacant building for a commercial property use and retain an existing business within the City.

The Planning Commission endorsed staff's interpretation that the business, as presented, is a permissible B-2 use and that if Mr. Kirkeby obtains the property he would be required to comply with the following conditions:

1. Obtain a CUP to address the parking issue in the rear of the building within a year from the date of purchase, and
2. Construct a proposed accessory building to house materials for business use within one year from the date of purchase.

Staff is requesting Council approval of the Planning Commission's recommendations.

Kirkeby showed pictures of what the property currently looks like and what he would like to do to clean it up if he is allowed to run his business from the property. Moegerle, "I attended the Planning Commission as the liaison and there was discussion about whether and how this might meet our code requirements, and there was discussion how this might meet our Code as 'Section O' as approved by Council. Also, it might fit as 'Office,' generally, because it would be his office. He would store materials and park vehicles there." Kirkeby, "That is correct." Davis, "There will be a certain amount of retail sales from this building. It would not be the primary source of Mr. Kirkeby's business, but there would be some offerings of some retail sales."

DeRoche, "To what extent are we talking small engine repairs?" Kirkeby, "General repairs, tune-ups, maintenance, things like that. Snow blowers, ATV's, things like that." Moegerle, "Is that a sideline or a mainline?" Kirkeby, "Sideline." DeRoche, "To what size? I am asking because I actually did this for about forty years. The small engine business can get irritating to neighbors. Constant running of chainsaws and motors. You can't run the stuff inside all the time. You have oil, some have transmission fluid, fuel. Are you permitted by the County to store that stuff?" Kirkeby, "I don't currently own the property, so that is something I would have to check into. If you are asking what percentage of the business it is, right now it is less than 1% of my business." Davis, "Mr. Kirkeby would be required to

comply with any ordinances regarding noise, nuisance. Anything the county required regarding hazardous waste material he would be required to obtain a permit for that.”

Voss asked under recommendations; the first one is to obtain a CUP to address the parking issue at the rear of the building? Davis, “There is an area at the rear of the building that is a parking area. Planning Commission’s interpretation of this was it falls under storage so our thought was he would get a CUP to address this. Make it clarified to what it was and set the conditions for it. In my opinion, storage is something that could be done for a day, a month or a year. In this case, the parking would be done for overnight. What I would request, and Mr. Kirkeby is requesting, that this is an agreement that a permissible B-2 exists, so then he can go ahead and conclude or start his applications for the acquisition of the property and then get the CUP to define the way the parking will be handled in the rear of the building.” Voss said I ask because it seems out of the ordinary that we approve something and then they come back to get something additional or the permit. Moegerle, “This is just on the agenda for the interpretation that this falls into the B-2 zoning. I know that one thing that came up during our Planning Commission meeting was the distinction between ‘parking’ and ‘storage’ and I don’t think our ordinances are very clear on this and think in the beginning of the year we need to make our ordinances more clear.” Davis, “After thinking this through, Mr. Kirkeby would probably want a CUP because that would define what could and couldn’t be done there.” DeRoche, “But a CUP stays with the property even if he leaves.” Davis, “It is currently a parking area. It was a HVAC contractor, and prior to that it was a Vet Clinic. Parking and storage are two totally different items.”

Voss asked to explain a little more about the proposed accessory building. Davis, “As part of Mr. Kirkeby’s work he has to use some chip rock. We didn’t want this stored outside, so he has agreed to build an accessory building to store this material. The screening on this property is really good. On the east there is an existing tree line. The accessory structure would have to meet City requirements.” DeRoche, “Again I am going to beat up on the small engine stuff. It is by the daycare center. If it gets too noisy, because of the kids, they have been there for a long time and they shouldn’t have to complain.” Kirkeby, “The small engine part I just started up as an off-season thing. It is not something I anticipate doing year-round. It is more of an off-season thing to keep my employees busy. Right now, I will shut the small engine business down for the majority of the season, but want to keep my employees busy year-round.” Moegerle, “From the pictures you have shown us, it looks like the small engine side, or retail side would be on the back side, or as far away from the daycare as possible.” Kirkeby, “It is several hundred feet from the daycare and on the far side of the building.” DeRoche, “I’ve got to ask because I represent everybody and I wouldn’t like a situation coming into my neighborhood that would create a problem.” Moegerle, “We had two residents appear for home-based occupation and they had minimal concerns. They really only had concerns about the trucks backing up and the noise from that.” DeRoche, “Yes, but that was on the other site. They did not indicate about the small engine repair creating noise.”

Moegerle made a motion to approve the zoning interpretation of a permissible B-2 use as applied for by Jeff Kirkeby for his business known as Pavement Resources at 21461 Aberdeen Street, East Bethel, MN as described herein. If Mr. Kirkeby obtains the property he would be required to comply with the following conditions: 1) Obtain a CUP to address the parking issue in the rear of the building within a year from the date of purchase, and 2) Construct a proposed accessory building to house materials for business use within one year from the date of purchase. Voss seconded.

DeRoche, “This CUP would be for how long?” Moegerle, “This is not a CUP. That will

come up after he purchases the property.” DeRoche, “If he buys the property based on what we are saying tonight, we are pretty much saying we will give him a CUP.” Davis, “The CUP could be approved or declined when it comes before you. I would think, though, in this situation it could be justified. But here again, that is a separate issue that will be brought up. Mr. Kirkeby can make application to the Planning Commission and they can make a recommendation to the Council.” Vierling, “The CUP would be limited to exterior activities.” **All in favor, motion carries.**

Lampert
Lumber
Property Use
Request -
1542 221st
Ave.

Davis explained that there are two potential purchasers of the property at 1542 221st Ave. that have requested both the City Council and the Planning Commission to consider the approval of their proposed use of this property.

One of the purchasers, PVS Auto Parts, is proposing to purchase the property and use the existing buildings for storage of used automotive parts. This purchaser has indicated that there will be no exterior storage on the property.

The other potential purchaser, Mr. John Buzick, has proposed to utilize the property as offices for used car dealers to meet the state requirements for licensure. His proposal features multiple dealer offices with stalls to display up to 5 vehicles per office. This individual stated that most of the dealers who would occupy the offices are usually only present once a week to perform paper work required by the State.

Since neither of these uses would be a new development but a continuation of a use of a non-conforming lot of record, the requirements for the Business Overlay District that are part of this zone would not be applicable. The requirements for a minimum lot area of ten acres for lots without water and sewer do not apply as this is only a change in an existing use and does not involve a new development.

This property is zoned B-2 and per the zoning code open sales lots are not listed as a permitted use within this classification nor is exterior storage permitted that exceeds 100 SF. This would seem to exclude the use proposed by Mr. Buzick. The question that needs answered in regard to PVS Auto Parts’ purchase of the property is if the requirements for the B-2 zone can regulate what can be done inside a structure if there is no selling of goods or services on the premises and there is no exterior storage on the site. In other words, with the exception of the removal of any structurally unsound buildings and some cosmetic treatment of the remaining structures, the site would remain as it currently exists under the PVS proposal. With that being said, would there be any difference between the use of the site as it is and its use if purchased by PVS Auto.

The City Attorney has provided an opinion that indicates that the proposed PVS usage of the property may be permitted if there were some service performed on the site and a CUP for this activity is approved by City Council.

While neither of these uses is a traditional B-2 activity or specifically listed as permissible use in the Zoning Code, there may be exceptions as noted above for consideration for approval of their use, particularly the PVS proposal. One other item that relates to this issue, while a non-zoning matter, is the need to address the issue of vacant commercial properties and determine if it is in the City’s best and long term interest to accommodate certain interim types of compatible uses (consistent with the development goals of the City), that fill store fronts with business activities that add value to the City and prevent the further deterioration and blight of vacant commercial properties.

The Planning Commission recommended that it is in the best interest of the City to permit PVS Auto to move forward with the consideration of PVS Auto as a permissible use with no additional intensification of the use of the site. The Planning Commission considers this a conditional use in B-2 under Section 46-4 O., "Other uses similar to those permitted in this section with some aspects of office use or retail sales as determined by City Council". The Planning Commission recommended that the final determination of the B-2 use be determined City Council.

Staff recommends that the proposed PVS Auto Use of this property be considered a permissible B-2 Use with the condition that PVS Auto maintains an office presence on site with hours of operation that do not exceed those permitted under City Ordinance and obtains a CUP that addresses exterior storage on the site and any other issues that relate to uses in this zoning classification.

Harlan Meyer, "The presentation that the city administrator just read to you is pretty much what they intend to do with the property. From the outside observer there is little activity at all. An office maintained." DeRoche, "If there is no exterior storage, why do they need a CUP for exterior storage?" Davis, "They don't need a CUP for exterior storage, we need a CUP to set terms for the use of this property. Basically, it would state 'In order to qualify for B-2 qualification, that there be office hours established' or any other terms we wish to apply to this situation." Meyer, "Am I correct in assuming that a CUP already exists?" Davis, "No, it does not, it would have to be applied for." Meyer, "Or is this use even a consideration, because there would not be a change of use in the property, besides it will be maintained in a higher use than it is now?" DeRoche, "Well what is the continuation use of a non-conforming lot of record? Voss asked do we not have a provision of continuing use of non-conforming properties if they are not used in that manner for a period of a year? Vierling, "It basically lapses after a year. So, the fact that you have a non-conforming prior use, if it has been discontinued for more than a year they have to prequalify under the rule."

Moegerle, "Is that going to be a problem with this property?" Voss said the comment that this is a continuation; it really cannot be a continuation. Davis, "That is the other side of the coin, if this doesn't apply, then they will move on and address it under a CUP." Vierling, "What they would have to do is re-apply if the Council reads the ordinance that way. If they locate on the property with a sales office and then they allow the exterior storage of these vehicles as part of the use of that office." Moegerle, "There is not going to be any outside storage of vehicles at all." Vierling, "Maybe I misunderstood. So, this is entirely maintained within the buildings?" Moegerle, "Yes, for this use." Vierling, "If entirely contained and have an office, you can permit it as an office." DeRoche, "One thing I have a problem with is our experience with a CUP we gave was going to be a limited business and it has turned into much more than that. It makes us more cautious." Davis, "That was an IUP. The situations are somewhat similar, but there are distinctions. We have made contact with the party and we will address the other issues with them to get them in compliance." Moegerle, "Do you have sufficient direction from us or do you need a motion?" Davis, "Think the buyer needs some kind of indication from the city."

Voss made a motion that, based on the use that has been presented by PVS Auto, the City Council recognizes it is consistent with the B-2 zoning, understanding that the primary use is office use with storage within the buildings at 1542 221st Avenue NE. Anything else will have to come back to Council for review. Moegerle seconded. DeRoche, "I will not approve any outside storage." All in favor, motion carries.

Change Order No. 7 – S.R. Weidema

Jochum explained that the County plans to reconstruct Viking Boulevard from Highway 65 to just west of 5th Street. The County and MCES have negotiated an agreement which will allow placement of the sanitary sewer on granular fill which in turn would eliminate the proposed pilings from the construction. Also the east crossing of the utilities would be constructed by open cut instead of jacking.

S. R. Weidema and MCES are requesting consideration of the attached change order for the Phase 1 Project 1 Utility Improvements. In general, the change order deductions include eliminating the proposed sewer pilings and the jacking of the utilities across Viking Boulevard. The contract additions include removal and replacement of the peat soils with granular fill and placement of the utilities across Viking Boulevard with open cut.

The following is a summary of the contract changes included in Change Order No. 7:

Change Order No. 7:

Total Additions:	\$3,338,967.90
Total Deductions:	-\$ 924,309.72
County Contribution:	<u>\$1,824,768.00</u>
Total Adjustment:	\$ 589,890.18

Cost Apportionment:

City of East Bethel	-\$ 69,646.43
MCES:	<u>\$ 659,536.61</u>
Total Adjustment	\$ 589,890.18

The change order items are discussed in further detail in Attachments 1 and 2.

Change Order No. 7 results in a net increase of \$659,536.61 to the MCES Contract and a net decrease of \$69,646.43 to the City Contract. The total Contract adjustment would be an increase of \$589,890.18.

Staff recommends Council consider approval of Change Order No. 7 to S.R. Weidema with a net increase of \$659,536.61 to the MCES Contract and a net decrease of \$69,646.43 to the City Contract. The total Contract adjustment would be an increase of \$589,890.18.

DeRoche made a motion to approve Change Order No. 7 to S.R. Weidema. Voss seconded; all in favor, motion carries.

Resolution 2012-72 Approving Final Budgets for the General Fund, Service Funds, Special Revenue Funds, Capital Project Funds, and Proprietary

Davis explained that a draft budget was submitted to Council on June 30, 2012. Throughout the summer Council discussed various aspects of the 2013 Budget. The 2013 preliminary budget was adopted on September 5, 2012.

The following represents decreases to the 2013 Preliminary General Fund Budget due to City Council review and additional information received after the Preliminary Budget was adopted. These changes reduce the 2013 General Fund budget by \$47,090.

Central Services and Supplies, Item 101-48150-421, laser fiche scanner	\$1,200
Fire Department, 101-42210-214, Clothing and Uniforms	\$2,100
101-42210-434, Training	\$2,000
City Administration, 101-41320-433, Dues and Subscriptions	\$1,000
Planning and Zoning, 101-41910-431, Equipment Replacement Charge	\$1,000

Funds for 2013	Risk Management, 101-48140-307, Professional Service Fees	\$1,500
	Engineering, 101-43110-302, Engineering Fees	\$2,000
	Park Maintenance, 101-43201-103, Part Time Employee	\$6,290
	Trails Capital Fund, Proposed Annual Transfer from the General Fund	\$5,000
	Parks Capital Fund, Proposed Transfer from the General Fund	<u>\$25,000</u>
	Total	<u>\$47,090</u>

These changes to the 2013 Preliminary General Fund budget result in a decrease in expenditures of \$31,765 over the 2012 budget. Projected expenditures for 2013 are below 2012 adopted levels by .66%.

General Fund revenues were increased by \$60,000 due to the contract for Building Inspection services with the City of Oak Grove. This revenue increase of \$60,000 and the above mentioned \$47,090 reduction in expenditures is reflected in the budget resolution presented for your approval.

Budgets for Special Revenue Funds, Capital Project Funds, Enterprise Funds and Internal Service Funds were presented and also discussed by Council at meetings in July, August and September.

Summary

With the changes noted above, the City tax levy for General Fund activities would decrease .66% from pay 2012 to pay 2013.

These budgets establish the City’s legal level of spending within the respective funds.

Staff seeks approval of Resolution 2012-72 setting the final budgets for 2013.

Moegerle made a motion to adopt Resolution 2012-72 Approving Final Budgets for the General Fund, Service Funds, Special Revenue Funds, Capital Project Funds, and Proprietary Funds for 2013. DeRoche seconded. Voss, nay; DeRoche and Moegerle, aye; motion carries.

Resolution 2012-73 Approving the Final Tax Capacity Levy and Referendum Market Value Levy for the General Fund and Debt Service Funds for 2013	Davis explained that the Council, through discussions at several City Council meetings throughout the summer and fall, has determined that a property tax levy for 2013 be set such that funds are available to accomplish the goals and objectives Council has identified. To make provisions for these goals and objectives, a General Fund levy of \$4,123,317 is necessary.
	To service existing debt, a tax capacity based debt levy of \$180,000 is necessary to make principal and interest payments on the 2008 Sewer Revenue Bonds. Further, a market value based levy of \$149,638 is necessary for principal and interest on the 2005 Public Safety Bonds that were issued for the Fire Station and Weather Warning Sirens projects.
	When the debt service levy of \$329,638 is added to the General Fund levy of \$4,123,317, the total levy amount proposed is \$4,452,955. This represents a .97 percent decrease from the 2012 total levy amount.

Resolution 2012-73 provides for the property tax levy required for the current spending proposed for the General Fund and the debt service requirements of the 2008 Sewer Revenue Bonds and the 2005 Public Safety Bonds.

Staff recommends approval of Resolution 2012-73 setting the final property tax levy for 2013 and direction this resolution is forwarded to the Anoka County Auditor.

Moegerle made a motion to adopt Resolution 2012-73 Approving the Final Tax Capacity Levy and Referendum Market Value Levy for the General Fund and Debt Service Funds for 2013. DeRoche seconded. Voss, nay; DeRoche and Moegerle, aye; motion carries.

Resolution
2012-74
Approving the
Final
Economic
Development
Authority
Property Tax
Levy and
Budget for
2013

Davis explained that the East Bethel City Council passed enabling Resolution No. 2008-83 establishing the East Bethel Economic Development Authority (EBEDA) on July 16, 2008. Resolution No. 2011-27 amending Resolution No. 2008-83 was approved on August 17, 2011 and limited the powers of the EBEDA to levy a tax within the City of East Bethel.

EBEDA has become an active board addressing economic planning, marketing and improving the economic vitality within the City. In order to accomplish these goals the EBEDA requires financial resources.

The EBEDA is a special taxing district and the City of East Bethel is authorized by Minnesota Statute 469.107 to levy a tax in any year for the benefit of the authority. The tax must not be more than 0.01813 percent of the taxable market value.

The maximum levy allowed for pay 2013 taxes is \$144,670 (East Bethel Taxable Market Value of \$797,957,993 X 0.01813%). The resolution presented for your approval provides for the maximum tax levy for pay 2013.

The final tax levy must be submitted to Anoka County by December 28, 2012.

Also attached is the EBEDA budget for 2013. The EBEDA has reviewed the budget.

Staff recommends adoption of Resolution 2012-74 approving the final EBEDA property tax levy and proposed budget for 2013 at \$144,670. Further, that a copy of the approved resolution be transmitted to the County on or before December 28, 2012.

Moegerle made a motion to adopt Resolution 2012-74 Approving the Final Economic Development Authority Property Tax Levy and Budget for 2013. DeRoche seconded; all in favor, motion carries.

Electronic
Reader Board
Design

DeRoche made a motion to table the Electronic Reader Board Design until we get better designs. Voss this is what you asked for last time isn't it? DeRoche, "There is not a \$20,000 addition on this?" Moegerle, "I may agree with you, but let's hear the presentation." **Motion fails for lack of a second.**

Davis explained that at the November 7th City Council meeting, DeMars Signs was selected as the contractor for the construction and installation of an electronic community reader board at the NE corner of TH 65 and Viking Blvd. Their bid of \$73,937 included a 25mm Watchfire color display and upgraded stone columns around the existing support poles.

Staff has been directed to work with DeMars Signs to create additional designs with upgraded architectural elements around the support poles and the upper sign cabinet. Staff has also been directed to provide an option that included moving the support poles to the

outside of the sign cabinet. This option would require removing one existing pole and installing one new pole and footing. Attachment #1 is a basic rendering of this upgraded design and would cost approximately \$94,289. Additional costs could be incurred depending upon the soil types encountered while placing the new footing and the depth of the water table.

Attachment #2 includes boxing in the lower four feet of the sign foundation with stone veneer and wrapping the remaining pole sections with stone veneer. The added stone quantities would require additional funding above the approved bid.

Staff recommends option #2 and that would require \$10,000. DeMars has been awarded the contract at the last meeting.

Davis, "We did approve at the last meeting for them to take down the reader board, and the bid. In essence, they have been awarded the contract so we do have to work with them and through them for a sign design and the architectural and exterior treatment of the poles. We can ask them to do some additional work, refine their proposals. I would recommend if you are not happy with that, let's sit down with Nate and I and sketch out what we want and get that to them so we can finalize how this is to be treated."

Voss said these are alternatives to what we had last meeting; it would be nice if we had those to compare them to. Alternative #1 came out of a comment and #2 came out of another suggestion. Moegerle, "We have this 'swoosh' on the website and while we haven't finalized the website, it would be nice if it matched on the reader board and website and then used it as a branding element. I think getting together with DeMars is a good idea." Davis, "I think we have the basic idea of what we are looking for." Voss said it would seem that the alternative #1 design is not possible because of the cost.

Moegerle made a motion to table the Reader Board Design with direction for staff and Council to get together with DeMars to come up with a good design. Voss asked how long will it take once we make up our mind to construct the sign. Davis, "Eight to ten weeks. Probably not until spring time." **Voss seconded.** Davis, "If Moegerle and DeRoche could come and we could send it to Council in an e-mail." **All in favor, motion carries.**

MCES
Contract
Amendments

Davis explained that of MCES charges for the City obligations for the Municipal Utilities Project. As a result of the meetings, the MCES acknowledges that the City is facing financial challenges relating to our water/sewer bond repayment schedule and as such, the MCES has agreed to offer the following adjustments to the current agreements to address these concerns:

1. Wastewater Service Agreement
 - a. MCES has proposed to move back the initial year for SAC collection from 2012 to 2013, since the wastewater reclamation facilities are scheduled for completion in fall, 2013.
 - b. MCES has proposed to modify the forecast growth rate for calculation of a payment schedule for debt service and capital costs. Under this proposal the projected annual SAC goals would be reduced in half, beginning in 2013 and that reduction would continue forward through the life of agreement. The annual increase for this proposal would increase at the rate of 17% annually as opposed to the current schedule of 10.6%. This change in acceleration of the increase is not related to the economic growth rate in the City but merely accounts for the MCES requirement to achieve the final numbers on the

- schedule adjusted for the change as proposed.
- c. MCES is proposing to “grandfather” the Village Green Mobile Home Park into the system if the City can acquire their treatment facility. The owners of the facility have indicated a genuine interest in pursuing this proposal. A meeting with the owners will be scheduled for the week of November 4th for the purpose of obtaining their commitment to an agreement to transfer the Village Green Sewer Treatment Facility to the City of East Bethel under terms satisfactory to both parties.
 - d. The 2013 SAC rate can remain at \$3,400, increasing approximately 3% annually. Alternately, MCES has proposed to reduce the 2013 SAC rate to \$3,000, increasing 3.7% annually or reduce the 2013 SAC rate to \$2,600 with 4.8% annual increases; As previously discussed if we reduce this it will take until 2028 to reach the substial goal rate.
2. Construction Cooperation and Cost Sharing Agreement
 The cost sharing for trunk sewer benefit (\$2,200,000) currently has a graduated payback schedule over 30 years. To assist the City through its near-term financial constraints, MCES has proposed to amend the agreement to defer City repayment for 10 years (interest would accrue, however). Under this proposal the City would elect in 2017 to begin the 5 year deferment with payments due in 2018 or chose the 10 year deferment on payments to begin in 2023. If the City does not select either option, the principal and interest due in 2014 will be \$117,245.11 based on the hypothetical level amortization schedule. This is a system operational cost and would be separated into an Enterprise Fund. Only until we have the revenue/expense balances for 2013 for this item will be able to determine if this will be a deficit for consideration in the 2014 budget.

The purpose of the modifications of the MCES proposal is to allow the City some initial relief in the financial obligations of the first few years of our contract. There is a cost to the deferment of payments for the cost sharing of trunk sewer benefits in terms of additional accrued interest charges. These costs would ultimately be passed along in the form or higher user charges or SAC and WAC fees if the pace of growth does not exceed the goals in the schedules that would allow keeping interest and principal payments current. The following are the additional interest charges that would accrue if the City chose to accept Option #2 as described above:

- a. Defer payment to 2018 results in an increased interest payment of \$284,436 over the life of the project; and
- b. Defer payment to 2023 results in an increased interest payment of \$585,628 over the life of the project.

If the City can afford to pay down the interest payments, these should be made in the year due. It would be in the City’s interest to accept the change in the SAC rate reduction fee to \$2,600. Even though the SAC charges would rise from the proposed 3% annual rate to 4.7% per year, it would take until 2028 for these rates to equalize and at the end of 2030 there would only be a difference of \$140 between the two. The reduction in the SAC rate would place the City in a more competitive position in relation the charges of surrounding Cities with urban rates and provide a direct cost savings of \$800/ERU for those businesses that are required to connect in 2013.

A request for interest rate adjustments on our loans as has been presented to MCES with the

submission of the final proposal for the Village Green Wastewater Treatment Plant purchase. This should be completed by January 2013.

Staff recommends Council consider approval of these adjustments and pay down the principal and interest of these charges in each year due as is financially feasible.

Moegerle, "What is the status of the discussions with Village Green?" Davis, "They are ongoing. I sent an update at the beginning of the week. The terms they proposed to the City were not in our best interest. We will have a meeting with them next week to see where we are with this." DeRoche, "I prefer to table this until we have a new Council in January. A full Council to make this decision." Moegerle, "Do you need an indication on this tonight?" Davis, "Met Council has asked that we give them an indication on this. If we tell them it will be the first week in January, I think they will accept this." DeRoche, "Seeing as how we are supposed to have five members here, and this is a pretty big decision, we should have all five here." Moegerle, "I think this is something everyone should be on the record for." Voss asked did you not already have a discussion on this? Moegerle, "Not all five members have been here." DeRoche, "This is pretty important, and there are two people coming in that might need to have some say in this. They are going to have to deal with this."

Voss said this is the third time this has been on the agenda now and if you want to keep deferring things and not make decisions, table it. DeRoche, "There were some non-rational decisions made previously. This is something that will affect every taxpayer." Voss said every decision we make does that. DeRoche, "Call it what you want. I say we table it. Voss said you called a special meeting to discuss it. It was on the agenda last month and then you called a special meeting just to talk about it. Moegerle, "When will we have a decision from Village Green?" Davis, "The importance of Village Green is it gives us an end of the line user. Generates about \$40,000 in user fees. The other things are independent of Village Greens decision."

Moegerle the motion to table fails for a lack of a second.

Moegerle made a motion to approve all five of the adjustments of the MCES Contract Agreements. With a special emphasis that the principal and interest is paid down as fast as financially feasible. Voss said but you are not defining if it is a 5 or 10 year deferral. Moegerle, "That is how it is in the write-up." Voss said so essentially it is a 10 year deferral. **Voss seconded. DeRoche, nay; Moegerle and Voss, aye; motion carries.**

Adopt
Ordinance 40,
Second Series,
Amending
Chapter 26,
Environment,
Article V,
Excavations

Davis explained that Staff has revised City Code, Chapter 26, Environment, Article V, Excavations to clarify the exemption status of a City, County, State or Federal road project and the conditions to which they apply. This amendment is necessary to provide a strict definition of an exemption and eliminate the interpretation of the wording of this article in the ordinance.

Staff recommends approval of the revisions of Chapter 26, Environment, Article V, Excavations of the City Ordinance and direction to publish in the official city newspaper.

Davis, "Upon review Moegerle has some additions she would like." Moegerle, "We discussed on page 156 term 'Right of Ways' is used in the article and delete that in part because our ordinances contain three definitions of this term. Page 158 section 2.B, Site Plan, this is missing from subsection C. Also on that page 10, 'Highway, streets or other public ways,' strike 'public ways' and include 'rights of way.'

Moegerle made a motion to adopt Ordinance 40, Second Series Chapter 26, Environment, Article V, Excavations of the City Ordinance and direction to publish in the official city newspaper with changes as noted. Voss seconded; all in favor, motion carries.

Viking
Boulevard
Speed Study

Davis explained that there have been 6 fatalities on Viking Boulevard between Thelen Road and Rochester Street in 2012. There seems to be no common single factor that has been identified as the cause of these accidents. While speed has not been indicated as reason in any of the fatalities, it is generally a primary factor or at a minimum a secondary cause in most types of accidents. For this reason and the number of fatalities that have occurred in 2012, a speed study is the initial component that is needed in the investigation of this critical problem.

Staff recommends approval of Resolution 2012-75, requesting the Anoka County Highway Department request the Minnesota Department of Transportation perform a speed study on Viking Boulevard between County Road 17 and Highway 65

Moegerle, "I am holding up a depiction of approximate areas of where the five accidents have occurred on Viking Boulevard."

Voss made a motion to adopt Resolution 2012-75 Requesting that Anoka County Highway Department Request that Minnesota Department of Transportation Perform a Speed Study on Viking Boulevard Between County Road 71 and Highway 65. DeRoche seconded.

Moegerle, "Last Wednesday there was a meeting of the Anoka Government Officials and the Sherriff was present and I asked him about this situation. He seemed to indicate that there was no common thread for these and it was in the possibility of being random events. And that a speed study seems to be a reflex action to do in this case and look like we are being responsive to this concern. I did ask if we could get signage up that these areas are accident reduction areas. Signs could be put up a lot faster than a speed study. I understand it will be eight months before there is a speed study done."

Davis, "That is the normal time it takes for a speed study. A lot of work won't be done before spring because they actually go out and radar the traffic and see what percentile the speeds fall into. It is something we might want to look into and make sure there aren't any stones unturned on this." DeRoche, "There was quite a bit of discussion: Jack, myself, Shelly, Captain Wells, two parties from Anoka County Highway Dept. Two stretches where these happened are pretty straight. I don't think it is a 'feel good' thing. To make sure, I think a speed study is needed." Moegerle, "At what cost?" DeRoche, "It has been six fatalities. And do I think speed is the problem? No. But to rule it out, what price can you put on it?" Davis, "There is no cost to the city. About signs, this could be requested immediately."

Moegerle, "A very serious thing and it will be spent from state dollars if not from city budget." DeRoche, "I can see a whole lot more waste going on than doing a speed study on this." Moegerle, "The whole thing is we won't get an answer until ten months, when signage would help." Voss said the speed study is an evaluation of whether the speeds should be lowered. It is an engineering evaluation. Because of the speeds driven or road design the speed should be lowered. Moegerle, "One of the things that Sheriff Stuart said to me was it was his understanding that the road was designed for 65 mph. I just wanted to make the point

that it seems this is some kind of a reflex to make everyone feel good.” Voss said I think the City needs to address something that became obvious to us earlier this year. It is a study. I don’t have a problem with doing some signage to make people aware and it is not shown in that graphic that Davis designed of the other serious accidents on that road. I had someone go off the road right in front of my place. Things happen. We shouldn’t be afraid of making an evaluation. We should be afraid of doing nothing. Moegerle, “Would you be up to an amendment to your motion of putting signs up on that road?” Voss asked is that something the state would do? Davis, “No, that is something the county would need to do.”

DeRoche, “We discussed this at that meeting. They stated that every accident that happens, they put up cameras everything. Is it a problem at this part of the road?” Voss said if people drove 55 mph at that stretch, okay, but they drive 70 mph. DeRoche, “They said they would step up patrol.” Voss said and they have. Moegerle, “Will you accept my amendment?” Voss said yes if it is appropriate. **All in favor, motion carries.**

Council Reports – DeRoche, “We went to the meeting with the Anoka County Highway Department. The Lakes are freezing up. People are out fishing on 3-4 inches of ice.”

Council Reports – Voss said I am elated that the light is on at 221st and Highway 65. I was really surprised tonight, I didn’t expect that. I am glad it is done.

Council Reports- Moegerle, “We had a meeting with Karen Skepper. Jack and Colleen Winter were there, and we discussed how East Bethel can raise their profile in a positive way. We discussed doing press releases/news releases, attending meetings as a full Council, that are pertinent to East Bethel like the Local Government Officials meeting. We will be working with her in the future. Met Council has a website Thrivemsp.org and they are requesting information from residents. We are getting some interest from the National Sports Center with regard to development of East Bethel in the near future.”

Adjourn **Moegerle made a motion to adjourn at 9:28 PM. Voss seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk