

EAST BETHEL CITY COUNCIL MEETING

November 21, 2012

The East Bethel City Council met on November 21, 2012 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Heidi Moegerle
 Steve Voss

MEMBERS ABSENT: Bill Boyer

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

Call to Order **The November 21, 2012 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Moegerle made a motion to adopt the November 21, 2012 City Council agenda. Voss seconded; all in favor, motion carries.**

Sheriff's Report Lieutenant Orlando gave the October 2012 report as follows:

DWI Arrests: There were three DWI arrests. Two of the arrests stemmed from the same incident where a female crashed an ATV she was driving and struck a tree. She had been drinking and a blood test was taken from her at the hospital. The male she had been driving ATV's with was also intoxicated and was arrested for DWI. The final DWI arrest involved a female who was speeding. She stated she had not been drinking but did test at a .26.

Property Damage: There were four reports of damage to property. One involved a mailbox that was damaged. One involved the watering of tree's when it was cold and caused the trees to freeze. One involved damage to a computer, from an acquaintance. The last report involved a vehicle that had a dent in the side, consistent with being kicked. There were no suspects but the neighbor had a party the night before and was following up with the victim.

Thefts: On October 30th at the Village Green Trailer Park, there was a theft of a vehicle that had two small children inside. The vehicle was left running while the mother stopped at her friend's house to let her know that she was not going to be able to assist in moving, as her kids were sleeping in her car. The mom went into the house momentarily and upon returning outside, her vehicle was gone. The vehicle was located approximately five minutes later. It was found on Polk Street, the children were still sleeping when the vehicle was located by a homeowner. The suspect had fled the area. A K-9 and State Patrol helicopter were utilized to try and find the suspect, but no one was located. The case is under investigation and a hoody sweatshirt found in the vehicle is undergoing forensic exam for DNA.

Four of the theft reports involved items being taken from yards – a bike, a sign, a sprinkler head and a trail camera. One report involved appliances being taken from a foreclosed home. Two reports involved thefts of purses – one from a bar and one from an unlocked vehicle in a driveway. There were also four reports of no pay gas thefts.

Last month there was a question raised regarding the low number of business checks noted on the CSO activity logs. I am attending a CSO meeting that is being held Sunday night and will discuss this with them. In checking over the logs, they are doing extra patrols at businesses and City parks, but are logging as business checks. Some CSO's list these as aid to agency as well, so we will try to get some conformity on what they label these checks for reporting purposes. That is just the CSO activity, not the deputy activity.

As I think most of you know, we had a fatal accident on Saturday morning on Breezy Point and County Road 22 (Viking Blvd). This raises concern because since April 16, 2012 we have had five accidents that resulted in six deaths. The first accident was on April 17th and that was when a bicyclist turned in front of a car and was struck and killed. The second accident we had was on May 17th, when a female driver drove into the back of a semi-trailer that was parked on the shoulder of Viking Boulevard. The third was the male that was lying in the roadway and that was on August 18th. Then on September 16th we had the two fatalities as a result of a motorcycle accident where a driver turned in front of the motorcycles and they had nowhere to go. The last one was due to icy road conditions, the female driver lost control of the vehicle and she went into the oncoming lane. Her vehicle was struck in the rear and she ended up rolling and was deceased on the scene.

Obviously, this many accidents cause us concern. Any amount of fatal accidents causes us concern. The question came up, "What can be done?" We are talking with County Highway and they do a road assessment after any fatals. I don't know what the prior fatals have shown. We will have a meeting with them after their assessment and Mr. Davis can be a part of that. We don't know if better signage would help. Council Member Voss had recommended speeds being lowered. In most of these cases, I don't know if that would have made a difference, however, that is not something that the county can do. That is something that the state has to do. I am not sure what the process is, but I know you have to request the state to do a speed study. We can work with you, if you think that is the way to go.

DeRoche, "In most of these, speed was not a factor. And anything that is alcohol induced, I don't care what you do to the road; if there is alcohol, there is alcohol. And if someone makes a mistake, they make a mistake. I don't care how many troopers you put out there, how many signs you put out there, you can't prevent things like that. And, we ran into each other and we had heard a couple different stories, but the road was slippery." Lt. Orlando, "My understanding is it was slippery. It was in that one area. But, when the deputy was out there initially he said there were several cars that went through and didn't seem to be having any kind of issues. Obviously Saturday was going to be well above freezing so it wasn't a situation where we would think we needed to get salt or sand on this."

Voss said that corner there, for whatever reason, it has happened before that it has frosted with it being well above freezing. For some reason, that curve has frosted before. Lt. Orlando, "And that is our hopes in talking with the County Highway Department. Is there something that can be put on that road surface? Is there a way to prevent that?" Voss said there have been many accidents on that corner. Davis, "That is a situation where that place is continually in the shade. And the time of the year is probably a contributing factor too. Icing conditions would occur there before they would occur anywhere else." Voss said there were other cars that went off and my neighbor slid through there that same day. Lawrence, "The semi that was sitting there, was that broken down or just parked?" Lt. Orlando, "No. He had pulled over and was off the roadway on the shoulder."

Voss said in general (I will reiterate what I said to Davis and Lt. Orlando today.) I have lived

on that road for over 20 years and by most means it is a safe road. Voss said but I think because of the type of road it is and the openness and with the concrete down, I feel it gives the feel of more of a freeway too. Observation I have made, the stretch of drive in Linwood where the speed goes down, I don't think people speed through there because they know it is 50 mph. On Viking east of 65, there are what I call pinch points where you have to really need to pay attention. Voss said when you come up to County Road 15 and 68 by the fire hall, because of that jog there is always concerns there. A deputy was hit there before. Voss said and you have the business where the gas station is. Voss said and you have through Breezy Point where it is tighter and all these roads come in that are blind roads. Then you have the curve and then towards my place you have another curve with driveways. Voss said and then the worst one is where Lexington and Wild Rice come together. You have businesses, lights and a lot of traffic all coming together. Voss said the times I drive east and west through there coming home; I can't believe people drive that fast through there, because there is so much going on. My whole point is by just lowering it to 50 mph it raises so much awareness of traffic conditions, and drivers to pay attention. Voss said it doesn't appreciably slow it down, but only takes 30 seconds longer to get to Highway 65. I think it makes a big impact on speeds. It is residential."

Lawrence, "Sometimes when you request a speed study the speed limit gets raised." Davis, "It is at its maximum, it cannot get raised. I spoke with the Anoka County Highway Department today. I left a message with Jane Rose. To do a speed study you have to request MnDOT to do it. They would come out and do the traffic count and do some comparisons. What the Mayor said is true, if there is some latitude to go up. In this case, 55 mph is the maximum allowed on a two-lane road. I will be talking to the Anoka County Highway Department on Monday to see what their process is. And if the Sheriff's Department has a meeting with the County, I would like to attend that meeting also."

Voss said the last time we requested a speed study it was Wild Rice because of residents' concerns. And it was because of the same concerns, sight lines. Voss said and they dropped that down to 50 mph. Voss asked who Lt. Orlando will be meeting with? Lt. Orlando, "Jane Rose is who we would be meeting with also, so we will coordinate that with the City."

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

Ty Hines, "First of all I would like to say I can't hear you that well. It is like you are mumbling when you speak. When you were speaking it is not real clear, maybe the bass needs to be turned down. I live on 229th on the west side of Highway 65. I have been there 32 years. It was a dirt road when I moved there. I would like to complain about the noise on Highway 65 is getting ridiculous. Ever since the construction has been done. The elevation has come up about a foot or two of what it used to be. The noise is from the tires. I am .3 miles from Highway 65. But the noise since they built a few buildings and lowered the land and excavation and the tire noise from Highway 65 is ridiculous. It is destroying my peace and tranquility. I can't even hear the birds chirping at my house anymore. Something needs to be done; it has gotten louder and louder over the years."

"I believe I have a solution to this. In the southern suburbs they build \$30 million sound proof concrete barriers. We can't afford that. So a solution to these problems would be (because the noise is so loud it is like I am living next to a jet airport.) It is so loud and it doesn't stop. Something needs to be done about it. My peace and tranquility is important. When you step out your door and you are bombarded by loud noise non-stop it wrecks your

enjoyment. Trees don't do any good. I want to tie this in with Met Council is going to put the drain pond in there and they will probably take away more dirt and then I will have more noise and that will cause more problems. But what I want to say is, the solution is to put earth berm barriers. I look at symbol of East Bethel and we should change it to a jet plane taking off, with animals running from the noise from Highway 65."

Voss asked where you live; before they did the work was it concrete or was it asphalt? Hines, "It was asphalt." Voss said concrete is always a lot louder than asphalt. Hines, "It is louder, plus the elevation has been raised. The noise comes from the tires and the mufflers. The excavation companies have taken away the dirt so there is no sound proof barriers anywhere. So I believe I have come up with a solution to save the City money and maybe even make some money for the City. Change the laws and put in earth berm sound proof barriers, high enough to block the noise from traveling for two miles on each side of the highway." Moegerle, "Do you feel if there was reduced speed on the highway, would that lower the noise? Or is that not an element in your concerns?" Hines, "During construction when they lowered the speed to 35 mph, it was three times quieter. It is proportionally, every 10 times faster, doubles the noise. If you allowed them to dump construction debris along there for filler for berm and then cap it with dirt that would be a cheaper way. Not only would you get money for allowing the dumping of the debris, the construction material, it would probably pay for itself and would probably be a money maker."

Voss asked the City engineer; being that it is new concrete will it quiet down over time? As the rougher surface wears off? Jochum, "It will. I am not an expert at this, but it will go down, I don't know how much." Davis, "We can pass this on to MnDOT and see what they will do. Unfortunately, we have no control over this and so we can pass it on to them and see what they can do." Hines, "It is a concern and it is loud. And now it is destroying my peace and tranquility and I can't hear the birds chirping. It is loud, really, really, really, loud. Any of your future plans should include plans for noise abatement. Instead of selling dirt to these companies. We need something that will stop the loud noise. Incorporate these earth berms. East Bethel used to have their own dump and it filled up. I believe that would be a good idea to bury it there and build these sound proof berms and cap it with dirt. It will be good for 30, 40 or 50 years before the material starts rotting." Lawrence, "Thank you. We will have the City administrator get together with MnDOT and look into this issue and see what they can do."

Debra Wadsworth, 20008 Tyler Street NE, "I want to inquire about a property at Coon Lake Beach. It is 553 Lakeshore. What do we need for the septic to comply with the zoning?" Davis, "You and I have had several conversations and the septic system has been deemed non-compliant because it doesn't meet the soil separation requirements. What you will have to do is obtain a septic designer to give you alternatives as to how that system can either be brought into compliance or an alternative system installed that meets the PCA and City code regulations. If there are no alternatives, then City code does provide a provision for a holding tank, provided you can prove there is no other alternative for septic disposal on that property. However, you need to remember that there is a portion of that existing drainfield that is on City right of way. That matter would have to be settled, too."

Wadsworth, "When talking about a holding tank, are you talking about the holding tank that is on the property now? Davis, "No that is a septic tank. There are requirements it would have to pass to be deemed as a holding tank." Wadsworth, "Let's just say it wouldn't be possible to do that. Can I tear down the two bedrooms on east side of the house and put in the septic and then put them back in?" Davis, "You would have to bring information to us

to show there are no alternatives to the septic issues on that and then request City Council to approve a holding tank. And, until you get that from an approved septic designer and submit it to us for review, we can't tell you what you can or can't do."

Wadsworth, "So verbally it wouldn't work if I told you I have gotten a couple septic people to come out to the property and redesign and yes, a millionaire would be able to do it, but they would be looking at that corner there. Verbally, can I tell you the septic people don't want to get involved unless you have at least \$15,000 to \$30,000? They are not quite sure. I have gotten the report on the septic and they are saying there is something from three feet down. How do we know there is really a problem if it is underground and there is five feet of rock?" Lawrence, "I think the thing you should be doing is talking to the contractor or the gentleman from the septic company. Or has the City already inspected this property and found it non-compliant? That would indicate that they have looked at the property and there is a problem with it. You need to direct your comments to the City inspector that would be handling this issue and have your people that are looking at putting a new system in work with him to make sure everything is compliant."

DeRoche, "The part of it that is on the City right of way, I don't really know if that is going to fly again." Wadsworth, "Are we allowed to work on that area if the City owns it?" Moegerle, "The contract says once it has failed you have to remove the finger system and then the retaining wall. So, I guess that anticipates that you would be able to do that, to remove it." Lawrence, "The best thing to do is to contact the City inspector and go over this with him. That way you know exactly what to do." Wadsworth, "I have been doing that for the past ten months and I get shot down." Davis, "Debra and I have had several conversations regarding this matter. From our standpoint we can't approve anything until we get information from a septic designer that says there is no way you can get an approved system on this site, whether it be a mound system, box system, regular drainfield, utilizing technologies to put aerators in a tank that reduces the soil separation. Until we get that information we cannot make any type of decision on this." DeRoche, "Doesn't that have to go through the Planning Commission?" Davis, "It goes to the building official and then he would determine if this is sufficient to bring this system into compliance."

Moegerle, "Well doesn't that property already have four variances on it and wouldn't a holding tank be another variance?" Davis, "In City ordinance it says holding tanks are allowed if it is demonstrated that there is no other way to treat the sewage or the effluent." Wadsworth, "What do you require to demonstrate that?" Davis, "A report that states that you cannot put a regular system in. You cannot use current technologies to adapt your system. And then, and only then, can a holding tank be considered. The Part B is that part of that system is on City property. The previous owner entered into an agreement with the City in 1988 or 1989 where the City gave them permission to utilize a portion of the City right of way. That agreement was to be in effect for life of system." Lawrence, "And a holding tank is exactly how it sounds, it holds everything. You have to pump on a regular basis." Davis, "That is a condition of a holding tank is that you have a contract for pumping."

Wadsworth, "Our main situation there isn't to replace the drainfield; it is the septic underneath it is falling apart?" Davis, "The non-compliance is the requirements of Minnesota Pollution Control Agency state that there has to be three feet of separation between the bottom of the existing drainfield and the mottled soils. In this situation, the water table is much higher than that. There are things that have been told to me that can be done such as an aerator, but I am not saying you should do that. There are still issues of use of the City property. This is an extremely complicated issue and you need a report from a

septic designer that says they have looked at all the options and there is no way they can get an existing type of system on the property.” DeRoche, “Isn’t there a difference between over here and the shoreland district?” Davis, “There are setback requirements. I think they are 75 feet from the ordinary high water mark. And the mottled soil is three feet no matter where you go.” Wadsworth, “Today there was a hold put on the property and I had to go show my certificate of funds, my cash to purchase the property. Is that because of the septic problem?” Lawrence, “You need to talk to your realtor about that.” Wadsworth, “If a person was going to purchase the property and get it, do you allow them to live there? Do I have ten months to get this done?” Vierling, “Has the system been cited?” Davis, “The system has been cited as being non-compliant and the previous owner was given ten months to correct the situation.” Wadsworth, “October 28, 2011 it was all cleaned out.” Davis, “It was pumped.” Lawrence, “You can’t use the septic system.” Vierling, “You are way ahead of where you need to be. You need to get a designer. You need to get back to step one and get a professional designer in there. Nothing proceeds beyond that; you have to go with that first.”

There were no comments so the Public Forum was closed.

Consent
Agenda

Moegerle made a motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, November 7, 2012 Regular Meeting; C) Meeting Minutes, November 14, 2012 Special Meeting Canvassing Election; D) Res. 2012-69 Final Certification of Delinquent Charges; E) ~~Water Treatment Plant Security Fence~~; F) Change January City Council Meeting Dates; G) Res. 2012-70 Adopt-A-Park John E. Anderson Memorial Park. DeRoche seconded. Voss asked to pull item E) Water Treatment Plant Security Plant. **Moegerle amended her motion to approve the Consent Agenda excluding Item E) Water Treatment Plant Security Fence. DeRoche seconded the amendment; all in favor, motion carries.**

E) Water
Treatment
Plant Security
Fence

Voss asked Davis to clarify this item. Davis, “The original proposal was to approve the change order to approve the irrigation and security fence. We are requesting that once the project is completed that we get quotes for the security fence and then present them to Council. We want to make everyone aware that this wasn’t approved at the last meeting and get approval to get quotes for the security fence at the completion of the project.” Voss said but what was presented at the last meeting was a change order that included the security fence and irrigation. Davis, “It was two change orders, one was the irrigation and one was the security fence. I thought it was approved too.” Voss said it was two separate quotes; they were on the same change order. So, are you proposing to send this as a change order back to Council for the fence? Davis, “We are once the project is finished and we find out what funds are available to get quotes.” Voss asked but why is this item in here? Davis, “To make certain that it is clear that the security fence wasn’t part of the motion. Staff wasn’t sure, myself included.” Voss said but now it is clear. Perhaps I could have been clearer in saying that this motion doesn’t include the fence. Davis, “In discussion after the meeting, Jochum said the motion didn’t include the fence. So we went back and checked and he was correct.”

Voss said so I guess I am still unclear about why this is here. He said Lawrence seconded the motion. When you voted was it clear that we were voting to not approve the fence? Moegerle and DeRoche said they thought it was included. DeRoche, “I thought we were going to do the fence and irrigation was added at the end.” Voss said it was no secret that I was against a fence around a brick building. DeRoche, “But we had talked about having a fence. We just talked about getting a grant from Homeland Security.” Moegerle, “Don’t all

these monies come from our bond monies that we have to spend on water and sewer?" Voss said it is still taxpayer's dollars. Moegerle, "I understand that." Voss said this isn't going to come back until next year anyways. So if you want to bring it back with the new Council and see if they are interested in putting a security fence around a brick building, fine. But, my motion at the last meeting was clearly for irrigation only. Voss said if when you voted if you didn't understand what the motion was, fine.

Voss asked why we would be asking for quotes for the security fence when it was in our packet, it was in front of us, and we had it at the last meeting. Jochum, "I should have explained this better. It is too late for the contractor to put in the fence. So he won't honor his price. It is winter, and we wouldn't be able to do it with this contractor anymore." Voss said because it wasn't acted on at the last meeting. Jochum, "That is correct. So we are asking do you want us to go get quotes? Or do you want us to drop it. The fence is about \$23,000." Voss said the point is at the last meeting we considered it and it wasn't passed. If you didn't understand what the motion was and now disagree with it, fine bring it back and we will have to do it outside the contract. Voss said but, don't bring it back unless you are going to support it and go through all the rigmarole because you didn't support it at the last meeting or you just didn't pay attention to what was going on. DeRoche, "Maybe I just didn't pay attention. Going by my initial comments, that is what I understood it was the fence and the irrigation was added. Old age." Voss asked that will be the next Council, correct? Because I don't want to sit and argue over this stupid fence. Davis, "That is correct."

2013 Budget Discussion

Davis explained that the Council approved a preliminary budget and levy on September 5, 2012 and submitted this to the Anoka County Auditor. On October 17, 2012 City Council directed that the proposed budget be reduced by \$47,090 from a list of item provided by staff.

Another alternative to lowering the tax levy was discussed at the November 7, 2012 City Council by providing building inspection services to the City of Oak Grove for additional revenues of \$60,000. The services contract is on the Council's agenda this evening. The Revenue Summary, included in Attachment #1, reflects the additional revenue and levy reduction. The resulting 2013 levy for General Fund would decrease 1.63% or \$68,153 from the 2012 levy. The General Fund and Debt levy combined would result in a decrease of .97% or \$43,843 from 2012.

The proposed reductions listed in the attachment do not address the projected \$91,000 bond payment deficit for 2013. Means for paying this have been previously discussed.

Unless otherwise directed, this debt is proposed be paid from the General Fund which has an adequate reserve to pay the projected \$91,000 deficit.

Staff is requesting Council direction for any or other proposed 2013 Budget adjustments. If there are no further changes staff recommends that the proposed budget as presented be submitted to Council for final approval, pending public comment, at the December 5, 2012 City Council meeting.

DeRoche made a motion to move the budget as presented to the December 5, 2012 meeting. Voss seconded. Moegerle, "I hate to see this come from the general fund, but I think it is the best we can do at this point." Lawrence, "This is does not reflect any change at all?" Moegerle, "This is a reduction of .97% of the last levy." **All in favor, motion**

carries.Fire Dept.
Report

Davis explained that the fire department reports are attached for your review. If you have any questions, I would be happy to attempt to answer them. Moegerle, "Have we requested and gotten information on multiple addresses where we have multiple runs on incident calls?" Davis, "We have requested this and it will be in your next report." Moegerle, "I see we have what looks like the same run to the same address twice on the current report." DeRoche, "I would like to know where the source of information to the newspaper was that we were cutting the Fire Departments clothing and training. Or did the reporter just put it in there? We haven't done anything yet." Voss said it was part of the reduction. Moegerle, "It was in the budget reduction. It was part of what the fire department offered. Because, up to that point, they hadn't reduced their budget." DeRoche, "The article looks like we cut out all their clothing and training. When you talk to the Fire Chief ask him about that." Voss said they read the packet off the website. They said what all the items were. Lawrence, "They forgot to put down, "As recommended by the Fire Chief", obviously."

Sylvan Street
License

Davis explained that on September 7, 2011 City Council approved a license agreement for Mr. Nelson appeared before Council on December 21, 2011 and expressed concern that the license did not address any terms of duration on the use. Mr. Nelson further requested that Council consider vacating the street or amending the agreement to include a fixed term for the license.

Per Council direction on December 21, 2011, staff was instructed to work with Andy Nelson, 4640 East Front Boulevard, to prepare a license agreement amendment that would address the issues of the use and term for a portion of the Sylvan Street right-of-way for a septic tank and well location. Staff was also instructed to work with the MPCA to determine if there were any programs that were applicable to this situation.

In addition, a public hearing was held to consider vacating the street but the petition for vacation was denied by Council. As a matter of concern for this issue, Council agreed to work with Mr. Nelson to attempt to resolve the question of a term for the license. The license agreement would serve a dual function, as it would permit Mr. Nelson to relocate his systems, which in turn, would permit Doug and Linda Foster, adjacent property owners on the east to Mr. Nelson, the space to correct deficiencies in their system.

Council approved the changes to the license agreement on April 4, 2012. Mr. Nelson installed the system per the plans referenced in the license agreement, but in the process removed four trees within the right of way without obtaining approval from City Staff. Mr. Nelson will present his documentation for the tree removal and his corrective action and restoration plan. Mr. Nelson will also be present to answer questions from Council regarding this matter.

The resolution of this matter is to be determined by City Council as to any damages or additional requirements on the licensee.

Moegerle, "Tell us how this happened." Nelson, "When we had the contractors in May and early June to take out the old system and put in the new. The heavy machinery does a pretty bad job on anything that is in its way. As a result, we knew we had to bring in some black dirt and reestablish the grass and some other things that were there. The day after we got everything leveled and were ready to seed, we had a very heavy rainfall (in June, about the only day it rained). It washed about five loads of dirt down into the yard and so we gathered

up our families and decided to do this ourselves. Nelson, "We decided to replant a crab tree in the area. About three to four weeks later we saw almost all the trees that had been covered with the soil were distressed. They had looked distressed because they were overgrown and had little growth. We called a tree expert out; Bartlett Tree Care. They suggested removal of the four trees and the big white pine and they discussed several different options, one was a deep root invigoration and then taking out all the sod and peeling back some of the soil to expose the roots, to heavily water them and then re-mulch it. And that is what we did."

"Removing the trees that were dead or dying and then we replaced them with four other trees five-inch Maples and two White Pine and one River Birch, replaced five trees for the four that were taken out. It looks pretty good now, but we did do without your permission. I realize now that we should have consulted with the City first." Voss asked and the replanting was done without consulting the City as well? Nelson, "Yes."

Moegerle, "How many diameter inches have we lost by replacing distressed trees with new trees?" Nelson, "Spruce trees were probably ten-inch and new trees are five-inch. I apologize for not contacting you. When I found out the trees were bad I figured it was my problem and I remedied it." Moegerle, "Did you think the trees were distressed because of the contractors driving the machinery over the roots? Or the soil suffocated them?" Nelson, "I have no idea, in between the contractors, machinery and soil. I think the tree arborist thought it was more the soil. They dryness and compacting an extra foot of soil on it can do some damage."

DeRoche, "If you hadn't put the system in, do you think the trees would have died?" Nelson, "The four trees that were taken out, they looked pretty bad. The guy said they were on their way out." Voss said they were spruce right? Nelson, "Yes, they were. And they were planted within a few feet of each other." Voss said you are right; it would have been nice if you would have talked to staff. But it is nice you planted trees and good trees. Moegerle, "We appreciate that you took responsibility and tried to remediate that. It would have been much better if we had known about it. Not to say anything would have changed, but it is important for us to know. And I appreciate your commitment to keeping us in the loop if any more trees should become imperiled."

DeRoche, "The whole idea about vacating the property and we didn't want to do that. And there were concerns from neighbors, and setting a precedent which this pretty much does now. I am looking at the notes, "Mr. Nelson said he wasn't going to remove any trees." I am a little troubled if the contractor damaged the trees. I think he should have looked into that a little bit." Nelson, "If he did, I am not sure about that." Voss said normal contractors don't worry about that. I am more worried about that we use the same drillers and that they don't cause problems. Nelson, "The driller when he put his big boom up sliced off three or four limbs of the big white pine." Voss said I have had that happen before, some of these guys just don't think about that. Moegerle, "If we had known, we as a City could have intervened and said, "Whoa, you have damaged the City property." We have been deprived of doing that. The precedent is an issue and to a certain extent we went out of our way to be helpful and then this happens. It is not what any of us wanted."

Voss said I think what is important too is that when we wrote this up was Mr. Nelson wouldn't remove trees to put the septic in. What Mr. Nelson did was remedy something that got damaged and he didn't know was damaged until long after the construction was done. Lawrence, "How thick was the soil that was taken off the top in that rainstorm?" Nelson, "I am guessing in that rainstorm it pulled off two loads of dirt. We had to have a bobcat pull

that back up. I am guessing two feet thick.” DeRoche, “When I noticed it, I was down working on my dock. I heard a lot of chainsaws going on. And they seemed to be doing a lot more than I thought they would be doing.” Nelson, “They also cut down some other oaks and such. We coordinated this with some other property owners on Sylvan. So they did a lot of other tree trimming. Part of the problem when they bought the house was it didn’t have proper fencing around the pool and there were trees hanging over the edge. So they took out trees over there. So they did much more than just those four trees.” DeRoche, “I drove over there and took quite a few pictures. That wasn’t oak in the fire pit. Originally they cut them and put them in the fire pit by your neighbors. Then they brought them up by the road and those were White Pines.” Nelson, “There were two big branches of White Pines that the driller damaged. That was closer up towards the road when they came in.”

DeRoche, “I think we opened a can of worms.” Lawrence asked the City administrator, “Did you review the property?” Voss asked DeRoche, “How did we open a can of worms?” DeRoche, “Because we had other people, we had four other lots along that road and we don’t want to do that because it would set a precedent.” Voss asked so if these trees hadn’t gotten damaged, would you feel the same way?” DeRoche, “No.” Voss asked do you think Mr. Nelson intentionally damaged those trees even though it was in the agreement that there wouldn’t be any tree removal? DeRoche, “I don’t recall it saying ‘There won’t be any tree removal.’ I read the minutes and I don’t recall seeing that part. I don’t think he did it intentionally.” Voss said that is what the agreement said. Lawrence, “He took care of what he damaged. That is a good thing and commendable.” DeRoche, “Then we need to remember that next time someone damages City property. They went ahead and fixed it so it is okay.” Lawrence, “I am not saying that. You can’t qualify every case as the same. The arborist said the trees might have died anyways. So here you have an issue that if he did anything the trees might have died.” DeRoche, “Had the project not happened, maybe. We are looking at this two ways. Fine. Next time this comes up, there were certain conditions that weren’t met, I would expect you have the same rationale.”

Lawrence, “The important part is when you are working in this area, if something go wrong, contact the City.”

Liquor License Refund

Davis explained that Troy Parker paid his City Liquor License fee on July 9, 2012. On or about August 19, 2012 Mr. Parker closed Fatboy’s Bar & Grill and is requesting a pro-rated refund of this City Liquor License fee of \$3,700 due to his claim of a “recent illness and hospitalization”.

Even though there is a condition in the City Ordinance that addresses license refunds for medical reasons, there is no description or provision as to how this claim for illness is to be substantiated. Staff is of the opinion that it is the intent of the ordinance that additional documentation be required to supplement the single source medical diagnosis supplied by the applicant for the refund in order to determine the reasonableness of the request.

At the October 17, 2012 meeting, Council directed staff to request more documentation from the applicant for the illness claim and provide that information within 30 days to the City. Staff contacted Mr. Parker and Mr. Parker did not supply any additional documentation. The attached e-mail represents Mr. Parker’s response to our request.

This request was discussed at the November 7, 2012 Council meeting and tabled due to the 30 day time extension given to Mr. Parker to furnish additional information to document his claim. We have received no additional information per our request of October 19, 2012

from Mr. Parker at this time.

The City has never refunded a liquor license fee. Staff is seeking direction from Council on this matter.

Moegerle, "You said he paid his license fee on July 9th? Wasn't that due on June 30th?" Davis, "That is correct." Moegerle, "So what happened during the period of June 30th and July 9th when this was paid? Was he operating? How did that work?" Davis, "He was instructed that he could not operate without a license. Whether he did or not we do not know. It was during this time that we worked extensively with Mr. Parker to do everything we could to help him with his quest to obtain not only his City liquor license, but also to satisfy his state obligations. The deputy clerk extensively contacted Mr. Parker and made arrangements with him to do what was necessary to get his fees in. I worked with him extensively and offered to meet him on a Saturday to get his check. On July 9th, he produced his funds to cover his City license fee." Moegerle, "I think what I have heard from Mr. Boyer and Voss as well that when this was passed it was anticipated that it would be for a catastrophic, as opposed to just an illness. I think maybe the ordinance should be reworked at an early opportunity to reflect that. But I am not convinced that Mr. Parker has met the standard with what he has provided the City."

Lawrence, "I think because of the lack of information provided by Mr. Parker I will make a motion.

Lawrence made a motion to decline the request of Troy Parker, Fatboy's Bar & Grill for a partial refund of his 2012-2013 On Sale and Sunday Liquor License. Moegerle seconded, all in favor, motion carries.

Electronic
Reader Board
Design

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 a design with upgraded architectural elements around the support poles and possibly the upper sign cabinet. Attachment #1 is a basic rendering of the upgraded design. Stone veneer would be used for the bottom four feet of the support columns and painted aluminum would be used for the upper six feet of the support columns.

Staff discussed the possibility of enclosing the entire lower section with DeMars Signs, but due to wind loads and the support pole ratings, were advised against pursuing that option.

Approximately 8-10 weeks will be required for sign installation.

Staff recommends approval of an upgraded electronic reader board design. Contract has not been awarded yet, we are waiting on approval of design.

Staff also recommends approval of the lease agreement for the sign location pending a discussion on the proposed annual cost of the lease.

Moegerle, "Does this have to be Steve or Richard to make the motion, since they made the previous motion based on the minutes?" Davis, "If you want to change something. One

thing you might want us to do is get the reader board ordered. The proposals that were offered were made to look like the City entrance sign and put the columns on the outside of the reader board and remove those two columns that are on the bottom of it. We had requested the company to give us a rendering; however they were not able to get it to us by the Council meeting tonight.”

Voss asked can you explain the reason why they did not come back with a monument base. I know you have it in the write-up. Davis, “Because of the windloads, it would increase the surface area and the windloads on the sign.” Voss asked what would they have to do to counter that? Davis, “Probably do a semi-monument base. Stone columns and on lower portion and leave the center open.” Voss said that was the only direction back. The sign was approved, we just wanted the monument alternative. Davis, “We did some sketches of that, with it up two or three feet.” Voss said so they are concerned about engineering of existing sign to support it. And this sign is bigger than what we have now? Davis, “It is fairly closed. It is 16 x 9. They are making some assumptions I am sure.”

Moegerle, “From Roberts Rules of Order, do they have to re-open this? I didn’t get an answer to my question. If we can go ahead and order the board and then get additional designs. Since we didn’t get what we were expecting and I am not real thrilled with this, is this something that has to come from Voss and Lawrence?” Voss said it has already been approved. Vierling, “The issue is the company saying they cannot design it the way you wanted it. The indication is they are saying that. We don’t really know that because they haven’t re-submitted the design.” Voss said well we approved a design and then we asked to see an alternative in case we wanted to change it. Vierling, “Technically there can be a motion to reconsider if that is to go forward or if the Council wants to wait until they get something back from the sign company to finalize it they can do that as well.” Davis, “I would like to have them proceed and have them order the reader board and dismantle the old one. Then have them come back with a semi-enclosed monument base and some kind of treatment on the columns and how it could match the entrance sign.” Moegerle, “Could it be stacked stone? Instead of river rock so it matches the design?”

Davis, “The previous sign the City had no lease, we were operating on the graciousness of the Hoffman’s. The City Attorney has drafted this lease, formalizing this. Voss asked did the five hundred a year come from us or them? Vierling, “I put that option in there.” Voss said I would hate to put all this money in the sign and then have to move it. I totally trust the Hoffman’s. Vierling, “This is why we formalized the lease with options up to twenty years. That is also why we put; they have been very gracious in the past for just \$1 a year. You will see that I have put a little more substantial payment in there.”

Moegerle made a motion to approve the lease 2012-10-19 between the City of East Bethel and the Hoffman’s for placement of the sign on their property. Voss seconded; all in favor, motion carries.

Oak Grove
Building
Official &
Inspection
Services
Contract

Davis explained that On November 13, 2012, the City of Oak Grove approved the contract proposal with the City of East Bethel for Building Official and Inspection Services. This contract is the agreement that was approved by City Council on October 17, 2012 for submission for the City of Oak Grove’s consideration. Pending approval of the City of East Bethel, this service would commence January 1, 2013.

Attached is the proposed contract between Oak Grove and East Bethel. As part of the proposal, we would provide office hours at the Oak Grove City Hall from 8:30 to noon, one

day per week or provide the same number of hours at another time that is mutually agreeable to both parties.

In order to provide this service to Oak Grove, the City will have to continue our current Building Inspector's position. Funding for this position is provided in the preliminary 2013 Budget. \$74,000 for wages and benefits for this position is included in the preliminary 2013 Budget. It is anticipated that this position can be filled by no later than February 6, 2013.

Nick Schmitz, the City Building Official, has been involved in meetings and discussions regarding this proposal. Mr. Schmitz sees no issues or reductions in services to East Bethel residents with this agreement provided we continue the position of City Building Inspector.

The City of Oak Grove has paid Inspectron, Inc., their current service provider, \$47,000 for services through September 2012. This would project out to approximately \$60,000 as Oak Grove's payments for this service for 2012.

It is anticipated that, based on the fee schedule in the contract, this service agreement with Oak Grove has the potential to generate approximately \$60,000 in additional revenue for the City of East Bethel in 2013 and cover our costs associated with this service assuming no diminishment for their inspection needs.

Staff is recommending approval of the Building Officials and Inspection Services Contract between the City of East Bethel and the City of Oak Grove.

As a second recommendation and pending the completed resolution of the employment status of the current Building Inspector, Emanuel Sackey, to the approval of the both the City and the employee, staff is requesting approval from Council to advertise to fill the position of Building Inspector.

Moegerle made a motion to approve the Building Official and Inspection Services Contract between the City of East Bethel and the City of Oak Grove. Voss seconded. Moegerle, "On page 81 it says 'At the direction of the City Council the City of East Bethel will also perform general nuisance and zoning enforcement according to Oak Grove's City Code.' Is that included in the four hours?" Davis "That is an hourly charge, an additional cost. It states it in there. \$60 an hour." Moegerle, "Do we have an estimate on what those hours will be?" Davis, "No. That will depend on what Oak Grove requests." Moegerle, "It sounds like a good thing at this time." Davis, "I think it is. And it is something that can be cancelled by both parties with 30 days notice. We need the additional building inspector regardless if we do this service. This is just another source of revenue to fund this. We estimate it will take 60% of this person's time to conduct these services. It will help us cover these costs. As we can see from just the basic reports, we are trending upward in our collection of fees. And our building department and inspection department is picking up in their workload."

DeRoche, "So, we are going to hire another building inspector. Oak Grove is going to maybe net us \$60,000 a year. Now to be able to do this, we have to hire another building inspector. What does it cost us?" Davis, "The cost for the building inspector was already in the budget. The \$60,000 is additional revenue, over and above that cost. It is additional revenue to the City." **All in favor, motion carries.**

Moegerle, "With regard to second recommendation, has the situation with Mr. Sackey been

resolved?” Davis, “It should be resolved within five days.” Vierling, “Agreements have been signed, but remember there is a mandatory rescission period.”

Moegerle made a motion to authorize advertisement of the building inspector position after the conclusion of the additional five day waiting period and resolution of Mr. Sackey’s employment. Voss seconded; all in favor, motion carries.

Council
Member
Report –
Moegerle

Moegerle, “There is a conflict with Local Government Officials (LGO) meeting next Wednesday and the EDA meeting. Susan Haigh from the Met Council is making a presentation at the LGO meeting, so I will probably be attending that. Planning Commission is next Tuesday. Busy week next week.”

Council
Member
Report –Voss

Voss asked when is the construction going to be done on the signal lights at 221st and Highway 65? Davis, “The original date I was given after construction started was November 12. I talked to Curt at the County on Monday and he said the schedule now is to start installation of that next week to be completed by the end of November.” Voss said I am surprised they took temporaries out. I would have thought they would have left them in.

Adjourn

Voss made a motion to adjourn at 9:08 PM. Moegerle seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk