

EAST BETHEL CITY COUNCIL MEETING

November 7, 2012

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

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Heidi Moegerle
Steve Voss

MEMBERS EXCUSED: Bill Boyer

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

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

Adopt Agenda **Voss made a motion to adopt the November 7, 2012 City Council Agenda. Moegerle seconded, all in favor, motion carries.**

Public Hearing – Drainage and Utility Easement Vacation for AHI, Investments, LLC & Village Bank Davis explained that Classic Commercial Park was platted in 2006. At that time, the plat was approved with a temporary cul-de-sac easement on the north end of Ulysses Street. The Final Plat of Classic Commercial Park is included as Attachment 1. The developer has replatted Classic Commercial Park as Classic Commercial Park 2nd Addition. As part of the replatting process, the developer constructed a cul-de-sac as shown on Attachment 2. A new easement for the current location of the cul-de-sac has been prepared and filed. The right of way to the north property line is still in place.

Ulysses Street would only be extended north in the future to service the property north of Classic Commercial Park 2nd Addition therefore if a new cul-de-sac was constructed it would terminate north of the current plat line. For this reason the current easements for Street, Drainage and Utility that would service a future cul-de-sac on the north end of Ulysses Street are not needed.

As part of the vacation process, state statutes require a public hearing. A public hearing notice has been published in the Anoka County Union and adjacent landowners have been notified of the hearing by mail.

Staff recommends that Council conduct the public hearing and receive public comment as required by state statutes for the vacation of a portion of the Street, Drainage and Utility Easements on Lot 1, Block 1 and Outlot A, Classic Commercial Park that are intended for a future cul-de-sac on the north end of the platted right of way for Ulysses Street.

Mayor Lawrence opened the public hearing for any comments from public. Since there were no comments the public hearing was closed.

Public Hearing – Delinquent Utility and Davis explained that East Bethel Code of Ordinances, Chapter 74, Sec. 74-126 (b) provides for the collection of delinquent utility bills through the property tax system. East Bethel Code of Ordinances, Chapter 30, Sec. 30-105 provides for the collection of unpaid

Emergency
Services
Charges

emergency services through the property tax system in the county which the recipient of the services owns property. These ordinances provide an opportunity for property owners that are delinquent in payments to the City for utility services and for emergency services to come before the City Council to explain their specific situation. The Public Hearing this evening is that hearing required in the ordinances.

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

At its September 19, 2012 meeting, Council set November 7, 2012 as the Public Hearing date for individuals wishing to object to the delinquent charges being collected through the property tax system. All affected property owners have been notified via U.S. Mail of the opportunity to appear before the City Council on Wednesday evening. Requests to be heard at the Public Hearing as provided for by ordinance were accepted through October 19, 2012. As of this date, no property owners have notified the City of their intent to be heard before the City Council.

Two emergency service charges remain unpaid. One of the unpaid amounts is for the fire department's response to a motor vehicle accident at Hwy 65 & Viking; the other unpaid charge is for an emergency response to a fall off of a three-wheeler.

Final certification date will be November 21, 2012. The final list must be provided to the County no later than November 30, 2012 (Minnesota Statute 429.061, Subd. 3 requires the City to certify its assessments to the county auditor by November 30).

At this time staff recommends the public hearing be opened.

Mayor Lawrence opened the public hearing for public comments. There were no public comments so the public hearing was closed.

Public Forum

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

Davis, "Before Mr. Meyer addresses the Council, I would like to point out that Mr. Meyer and Mr. John Busick appeared before the Planning Commission at their meeting in October. They brought up the subjects that will be addressed tonight. And there was no real discussion of those. That is why they are back here tonight for City Council."

Harlan Meyer, of Bentley Realty, "I am representing my client, PVS Auto. I trust that each of you got a copy of this proposal. And I would entertain any questions. But the purpose is that my client wishes to purchase the seven acre parcel that is presently known as Lambert Lumber and they wish to use it as storage and expansion of their present business. Their present business is located at 1681 Radisson Road in Blaine. We are looking for approval from Council to move forward and purchase the property, but, before doing that, we want assurance that the City of East Bethel will approve the business that is attended to go in there. And that is storage of auto parts and storage of semi-trailers which will be stored inside. So in appearance it will look much like it does now, but it will be cleaned up. Buildings will be improved. There are a couple buildings that, according to your building inspector, should be removed and my client intends to do that. Should it be necessary to improve the septic system or drainfield they have also agreed to do that. They want to improve the property to

make it look like it is a successful business going in, rather than the weeds and grasses and everything that is in there now.”

“According to your city’s B-2 Business District designation the uses I suggested to you are approved within the parameters of your jurisdiction. And should we get your approval to proceed, we would certainly apply for an Interim Use Permit (IUP) or Conditional Use Permit (CUP); whichever you would choose them to have in this location. Also, I know what the intent of this land is. The big picture for East Bethel, to have that intersection developed into a retail commercial area. Probably that is not going to happen overnight. My client would be willing to sign documents that stating that if and when this happens he would be willing to sell the property back to either the City or the developer at current market value.”

Vierling, “Has there been an application filed for this?” Davis, “No there has not.” Vierling, “I am not exactly sure what the nature of the proposal is. But, certainly Council is aware that this matter may require an IUP or a CUP. And there is a public hearing process to go through before the Council is allowed to indicate any issue on the matter. The application would have to go forward. I appreciate people want to have certain commitments before they go ahead and buy, but that is why we have an application process to go through and a public hearing process to go through so that can be vetted out before we get to Council.”

DeRoche, “This came before the Planning Commission at their last meeting. I don’t know who caught that meeting, but they choose not to hear anything about it.” Voss asked it wasn’t an application at Planning Commission either, correct? Vierling, “There has not been anything formally filed, fees paid and public notices published, anything of that nature?” Davis, “No and I think this came before, number one to determine if this is an acceptable use within the B-2 zone. There are questions about whether it is or isn’t. This is a grey area. In the case of Mr. Meyer’s proposal, my interpretation is, if the use is conducted as described and there is no exterior storage involved on the property, only use of internal portions of property, then the use of the property as it is changed any. The only change would be some cosmetic improvements to the re-habitable buildings and the removal of some buildings that aren’t structurally sound. But, we were trying to determine at the Planning Commission level if this is an acceptable use under the B-2 zoning requirement.”

Vierling, “I appreciate that. And certainly an informal discussion is appropriate and many cities have those. But in terms of the individual looking for a legal commitment from the City, I don’t think you are in a position to give that. First of all, if it is a permitted use he doesn’t need your permission or at Council level to go forward. But, if it turns out to be an accessory or an IUP or CUP, then he does. And depending upon what actually ends up being put on the property, and the use that may come into play. But, that is why we have an application process to formally vet that process out.” Davis, “And that is what we were trying to determine is if it was an acceptable use within the existing zoning code. Then an IUP or, in this case, probably a CUP is not required. And that is a determination that will have to be made before we go further with either one or the others.”

Voss asked isn’t this intersection also a Planned Unit Development (PUD)? Davis, “This has a Planned Business Overlay District on it. This would be for new development. If this is considered an existing use, it can be grandfathered in. What they are proposing is not altering the property. So, would that be considered new development? The Planned Business Overlay District refers to new development.” Voss said along those lines, this is B-2? Davis, “That is correct.” Voss said and the fact that the business has been vacant for a couple years does that change anything as far as the use?” Davis, “It doesn’t change the zoning. In terms of a business where it is a non-conforming use and then not used for a year then it does

revert back to the other zoning. In this case, the zoning is correct and it is still in a business use.”

Lawrence, “How is your business structured on the sale part? Obviously, you want to sell these cars you are bringing in.” Harlan, “They will just be stored here and sold at the Blaine office. They will move back and forth.” Davis, “Just so I am correct on this from our discussions, Mr. Meyer, there is no exterior storage associated with the business on this site. In the B-2 zone exterior storage is limited to 100 square feet. We did have another gentleman, Mr. John Busick, that was also inquiring about this property come before Council. He wanted to set up a multi-tenant office for used car dealers to operate an office out of to meet state licensure requirements. But, they would have had to have five stalls dedicated to each office. That would have been an open lot type of sales so it would have exceeded the 100 feet of exterior storage. In my opinion, this did not meet the requirements of the B-2 zoning.”

Lawrence, “When you say parts, what are you talking about?” Meyer, “All types of parts, used auto parts. They don’t bring vehicles in to cut them up there. They are already broken down.” DeRoche, “What is done with the hazardous materials? Used parts usually have oil, grease, etc.” Meyer, “That is all taken care of prior to bringing them on-site.” Voss asked so it is just storage, no retail? Meyer, “Absolutely, no retail.” Voss asked and no wholesale? Meyer, “No wholesale. Not out of this location.” Lawrence, “Where do you sell your used parts at?” Meyer, “I would have to ask, but I assume to anyone that needs used car parts.”

Meyer, “Did I understand the City Attorney to say that we don’t need an IUP?” Vierling, “No. I did not say that. I said basically if you are taking the position that what you are doing is within the permitted uses section of the ordinance that would be a permitted use. But, certainly there are permitted uses, accessory uses, interim uses, conditional uses and they are all listed out in the ordinance. I am looking at the permitted use in the section of the ordinance for B-2 and I am not seeing storage in and of itself. There is retail sales services, but you are not conducting retail sales from what you report. And the rest of the uses A-N that are listed in that section, I don’t see it as applying to what you are describing to us.” Meyer, “Under conditional uses 4.G.”

Vierling, “If you look at 4.G Exterior storage in conjunction with retail sales and services, then you go back to if it is a conditional use. The Council is not in a place to comment on conditional uses. We have an application, a public hearing, published notice, community input and then a ruling on it. We are putting the cart before the horse here. Technically by law, both by statute and by ordinance they are duty bound to give the public an opportunity to comment before they issue any type of a permit or indicate that a conditional use is permissible on a premises. They are not in a position to do that until we have gone through that process.”

Davis, “If it is a Conditional Use, it has to go before the Planning Commission. It has to be approved by them and then referred to City Council.” Vierling, “Typically that is where your public hearing is going to be conducted is the Planning Commission, and then they make a recommendation to City Council.” Meyer, “So if we made application for a CUP, then we could proceed, assuming it would be granted. Then we could proceed from that point, correct?” DeRoche, “Don’t assume anything.” Voss said, yes, don’t assume anything.

Vierling, “There is a process outlined in the ordinance that outlines the application process and how it goes through the various channels. From there, you can certainly see where the timeline might be. Going from application, to staff review, to Planning Commission, to City

Council. And you could gauge your due diligence efforts and what you need to do on your end accordingly.”

Voss asked the City attorney, if it is a permitted use under conditions, isn't that Council or Planning will set that conditions, but it is still permitted under those conditions. You can't say "No" if it meets the permitted use. Vierling, "You certainly can. The general parameters of a conditional use permit, the assumption is the underlying use is reasonable and will be permitted. But the Council has the opportunity to impose conditions on the use that might mitigate any adverse effects through the community. And, certainly there are times when a use, as proposed, is not going to be acceptable and the Council will say "No." But, nine times out of ten, a conditional use is going to be allowed with the level of conditions that are acceptable in there. And to the business owner, sometimes those conditions are acceptable to what you want to do and sometimes they are not.”

Lawrence, "I am wondering if you could have your proposal on the property sale contingent on approval from the Council." Meyer, "Basically I have already done that." Voss asked the city administrator, I don't understand what you are saying. It seems like you are saying, in your opinion, this meets the requirements of B-2. Davis, "This could meet the requirements of B-2 if you say this use is no use. Does B-2 dictate what you can regulate for use within the building? There will be actually no change on the property, the only change is they are going to store some parts inside the property. There are no retails sales. So, if you look at it from that argument, there is no change in the use of the property with their purchase. And what I am trying to do is determine if that is the case, comply them with the B-2 zoning regulations." Moegerle, "You are looking at 'J' and looking at 'I', Retails sales, multi-tenant office use but it might be another place it could fit as well.”

DeRoche, "We have learned in the past that making an assumption doesn't work well for the City Council." Voss said, functional question; with the reconstruction at 221st does the median change the access to the property? Davis, "The median terminates right before the access to this property." Voss said I am thinking about semi traffic. It is one thing for vehicles to get through, but another for semis. DeRoche, "Speaking of traffic, what kind of trucks are we talking here. This road was just redone." Meyer, "They are semi-trailers." Voss said which the road is constructed for.

Davis, "There is another question here too. We are going to have some properties that we may need to consider some type of interim use on them, as long as they are consistent with the goals of the City and the corridor. It is kind of a balancing act. Are you going to say no property can be used for an alternate function unless it meets X, Y, Z. And we let it sit there and either it deteriorates further or we spend a lot of staff time with the owner to keep it up-to-date. Or it becomes a blighted area.”

DeRoche, "We have most recently been talking about redoing the comp plan and the Business Overlay District on that intersection, redoing it. How does this play into that?" Davis, "This would be to me. And I have discussed this with Mr. Meyer. This property is slightly less than eight acres. With the current Business Overlay requirements, you have to have twenty acres before you can do a new development. In order to comply with that, unless the acreage changed, this property would either have to be sold to the adjacent land owner, or they would have to buy a property to get the acreage to do a new development.”

DeRoche, "If this is currently a 20 acre area, and this property is seven/eight acres, then how can he do this anyways?" Davis, "It is not new development. It is still part of an existing use; "existing use of a property that was grandfathered in." Even if someone wanted to come

in there and open up another lumberyard or another point of retail sales. As long as it wasn't a new type of retail development, then the business would comply." Voss said I like the suggestion you have in your proposal of purchasing the property or an option for a developer or the city for future development. That is the kind of forward planning that is important when developing areas, so when it does happen it makes it easier. Meyer, "I will continue my discussions with Mr. Davis and proceed from there."

Davis read a statement from Mr. John Busick, who was also interested in purchasing the property and cannot be here tonight. "We were interested in the Sylvester's seven acres and put in a tentative purchase agreement. It is contingent on the City approval to operate as a used vehicle and storage site. We have several operations where we rent out a small office and give the dealer five car stalls to display vehicles. In our Forest Lake location, we have six dealers and one car is presently in the lot. The dealers for the most part are only part-time and are usually there only once per week to do paperwork. This property has been for sale for a couple years and no other inquiries for purchase that I know of are piggy-backing our proposal. We would like to consummate our sale if the City okays used vehicle zoning and outside storage.

Davis, "To me, this one definitely does not fit the category of B-2." Lawrence, "Doesn't the B-2 zone if auto sales require internet only?" Davis, "That is in B-3. I did tell Mr. Busick that I would read his statement tonight for everyone's benefit." Moegerle, "I just don't see how it meets in permitted uses, even in conditional uses." Davis, "Not with exterior storage."

There were no more comments so the Public Forum was closed.

Consent Agenda

DeRoche asked to remove B) Meeting Minutes, October 17, 2012, Regular Meeting and G) Change Order No. 2 Sprinkler System & Fencing Municipal Builders for Water Treatment Plant. Moegerle asked to remove C) Schedule Special Meeting to Canvass Election Results and H) Approve Hire of Community Development Director/City Planner.

Voss made a motion to approve the Consent Agenda including: A) Approve Bills; D) Pay Estimate #8 to Municipal Builders for Water Treatment Plant No. 1; E) Pay Estimate #1 to Rum River Contracting for the Jackson Street Reconstruction Project; F) Res. 2012-65 Accepting Work of Traut Wells for Municipal Wells No. 3 & 4; I) Res. 2012-66 Accepting Donation from Boy Scout Troop 733. DeRoche seconded; all in favor, motion carries.

B) Meeting Minutes, October 17, 2012, Regular Meeting

DeRoche, "I removed Item B) Meeting Minutes, October 17, 2012, Regular Meeting. After reviewing them there are numerous problems with them. I had asked the city attorney if we could use the DVD as an official record and he stated "No". So, the minutes have to be pulled and re-gone through. An example is: motion was made, all in favor, motion carries. Boyer opposed. If all in favor, can't really have someone in opposition. Voss asked what page? Moegerle, "Page 20." DeRoche, "A lot of statements are made where they aren't finished, just chopped off. If comments are made about items, need to identify it." Moegerle, "When I read these, I identify said, or asked. Glad I didn't do it this time. Send them back to go through." Lawrence, "Page 26, Moegerle made a motion to approve, I did not approve that one." DeRoche, "Was that a non-vote?" Lawrence, "Yes that was a non-vote." Moegerle, "Issue you mentioned earlier, also repeated on page 23. Certainly not the structure we are accustomed to."

DeRoche made a motion to table Item B) Meeting Minutes, October 17, 2012, Regular Meeting. Lawrence seconded; all in favor, motion carries.

C) Schedule

Special
Meeting to
Canvass
Election
Results

Moegerle, "I asked to have this pulled because we have far too many meetings. We are having a Town Hall Meeting on the following day. This was originally scheduled for Tuesday. If we schedule this for Wednesday at 5:45 p.m. we can canvass the results before the Town Hall Meeting. So long as there is a quorum there, we can get it done. And save, at least in my case, a twenty mile round trip.

G) Change
Order No. 2
Sprinkler
System &
Fencing
Municipal
Builders for
Water
Treatment
Plant

Moegerle made a motion to schedule the Special Meeting to Canvass the Election Results on Wednesday, November 14, 2012 at 5:45 p.m. DeRoche seconded. Voss said the only comment he has is he won't be around on either Tuesday, Wednesday or Thursday. **Voss no vote, rest in favor, motion carries.**

DeRoche, "I know we had discussed doing a fence, wasn't aware of an irrigation system." Davis, "The fence and irrigation system were part of the original bid. The contracts agreed to reinstate these back into the project as a change order with no additional cost. These two were removed for additional exploration. It was thought, at the time, that Homeland Security may be a source for the fencing. But they will not cover this since there is another source of funding for it. It was covered in the project bid. We do recommend that the irrigation system be put back in. We have a nice facility up there and it is going to be something that we are going to have people around. Business prospects, development prospects and if it is just a burnt up patch of sandburs it is not going to look too attractive. DeRoche, "Is this in the budget?" Davis, "Yes, it was part of the original bid." Jochum, "There is excess of \$7,664 a couple allowances in computers and furniture that weren't used." Voss asked is the irrigation going to be on the treated side of the system. Davis, "Yes." DeRoche, "What kind of furniture and computer did we get for \$13,000?" Davis, "The whole system can be run from a cell phone. Furniture was basic." Jochum, "That is why we have the savings. Only \$5,000 was spent."

Voss made a motion to approve Change Order #2 to approve Alternate Bid #3 for the Irrigation System. Lawrence seconded; all in favor, motion carries.

H) Approve
Hire of
Community
Development
Director/City
Planning

Moegerle, "I pulled 'H' because I think when we hire a position as important as a Community Development Director/City Planner, it should be something that is not on the consent agenda. We have gotten great information about Colleen Winter who, it has been recommended, we appoint as Community Development Director/City Planner. And it was an exemplary discussion about her skills and what she could bring to the City.

Moegerle made a motion to hire Colleen Winter as the Community Development Director/City Planner. Voss seconded. Winter, "I am very much looking forward to working with the City of East Bethel. I am officially going to be starting December 4. However, I have already been at a couple of the staffing meetings. I will attend as many meetings as my schedule allows to get to know what the City is all about. I don't plan on coming in here and making sweeping changes or suggesting crazy things. It is really an opportunity for me, especially in the first month, to get to know what the Council is about, the Planning Commission is about. It is as much education for me, as I hope I can bring some of my knowledge and some of the things I know to both the Planning Commission and the Council level. I am looking forward to working with staff. If you have questions I am happy to answer them. You are in a critical time with development. There are a lot of things that are happening. In the long term, I think it is an opportunity to grow in a way that is positive."

DeRoche, "What is your approach towards community service? Yes you will be working with developers. But, you will also be working with residents. And sometimes they come in and might not understand things and there are two ways to approach that. Either shut them down or explain things. And, maybe work with them." Winter, "Obviously the second approach is a win/win for both. I don't think you ever benefit anyone by having them come in and shut the door. A lot is explaining to them in a way that they understand it and it makes sense and is relatable to them. Even if they don't agree with it. You always have to be very cooperative with the residents in the community." Moegerle, "Will you be working with the EDA?" Winter, "Yes, I think that is our intention. The administrator and I have a lot to talk about still." Moegerle, "Because you are currently at DEED." Winter, "Yes." **All in favor, motion carries.**

Planning
Minutes

Davis explained that the Planning Commission Meeting Minutes from October 23, 2012 are for your information and review.

Road Minutes

Davis explained that the Road Commission Meeting Minutes from October 9, 2012 are for your information and review.

Building
Department.
Report

Davis explained that permit fees collected through October 2012 total \$266,436.67. Revenue for fees from this department for 2012 was projected to be \$100,100. The increase in revenue is due primarily to the Aggressive Hydraulics project but also to an increase in home improvement activity and slight increase in new home and commercial construction. New residential construction has increased from 3 permits issued in 2011 to 4 permits for the first 10 months of 2012. New commercial construction has increased from 1 permit in 2011 to 3 permits issued through October 2012. Attached in your packet is a detailed inventory and breakdown of all permit fees collected.

DeRoche, "Under meetings it said sixteen meetings, what are those?" Davis, "Those are individual meetings with residents that the building official has when they request individual review of their plans, recommendations, discussions of projects, anything that has to do with plan review that is required. Moegerle, "On page 67, 'code violations', nine of those say resolved. The eleven remaining, have those been referred to the city attorney? Mr. Martin had a method of tracking complaints." Davis, "We have a method of tracking them too. We had this discussion before. We can list where those stages are. None of those have been referred to the city attorney for further prosecution. Our goal is to try to resolve them. But, it is inevitable that some will get there. But it goes back to working with the residents. Some people that don't know they are in a code violation, but they do express a desire to get this worked out as long as substantial progress is being made. There is one that will probably be referred to prosecution as soon as the building official returns from vacation." DeRoche, "I know for past Councils, prior to us, there was actually a breakdown given. Not necessarily the names, but the violations. Is it blight? Is it dog issues? Is it building issues? The numbers are fine, but 'code violation' could be just about anything." Davis, "We can supply that breakdown. I would like to err on the side on privacy. It is not good policy to parade people's names when they are working to correct these." DeRoche, "I am not looking for names, but I would like a little more detail. The numbers are numbers, but they don't mean much."

Moegerle, "On page 67 and septic inspections. Are we looking at those being undertaken by our residents? And those are just the permit fees that come in to have them inspected and pumped? Is that motivated by the homeowners or the City?" Davis, "That is generally motivated by the City and there are things that are in code that trigger the requirements for those compliance inspections. If you live in the shoreland district and apply for any type of a

building permit other than windows, siding or minor roof repairs, a compliance inspection is required as part of the permit.”

DeRoche, “What do we do if there is a septic system that is not compliant, possibly seeping, but there is not really anything being done? They were told unless they do some type of construction nothing is going to change. My concern is if it is seeping, and it is on the lake.” Davis, “If no one tells us, then we don’t know. If we are told, we will go out and do an inspection. If it is non-compliant, then the owner is given ten months to repair the system. We do track this. We do monitor this and send out letters to be pumped every three years. We don’t go out and just do compliance inspections.” DeRoche, “This has been going on for quite a few years. Was reported previously.” Davis, “Give me the information and we will see that problem is addressed.” Voss said and keep in mind that just because the system is non-compliant doesn’t mean there is a problem.

Municipal
Utilities
Project Update

Jochum explained that, as discussed at the last meeting, the main work components left on the utility project include approximately 1,400 lineal feet of watermain and sanitary sewer along Viking Boulevard and the east crossing under Viking Boulevard for the watermain, sanitary sewer, and forcemain.

The County plans to reconstruct Viking Boulevard in 2013, from Highway 65 to just west of 5th Street. The County and MCES have been in negotiations to coordinate the installation of the remaining utilities with the road construction. If an agreement is reached between the County and MCES, the sanitary sewer would be placed on granular fill and the proposed pilings would be eliminated from the construction. Also, the east crossing of the utilities would be constructed by open cut instead of by jacking.

Municipal wells #3 and #4 are complete. Final payment was made on those tonight. Training started this week.

Water Treatment Plant No. 1

Staff training on the plant operations has begun.

Water Tower No. 1

The tower has been filled and is ready to go. Moegerle, “Are we going to keep water in the tower all winter?” Jochum, “A minimal amount to keep it from freezing. The tower will need to be exercised.” Moegerle, “Is the water coming at the quality that was represented when we drilled the well and tested it back in March?” Jochum, “Yes, through the treatment plant.”

Lawrence, “How much water is in the tank right now?” Jochum, “Half a million gallons. They need that to do their testing, so they have been draining and filling.” Lawrence, “The soil, when you use the granular fill. Will that support this satisfactorily? Versus they were going to use the granular fill to lieu of the pilings for the sanitary sewer system?” Jochum, “Yes. The prior design they weren’t going to remove the peat soils. Now they would go down thirty feet excavation with clean fill. This will be a much better system if it all works out.” Davis, “That is why the Met Council is working on the Anoka County Highway Department on the reconstruction of 22 and Highway 65. A lot of that will be mucked out and clean fill will be brought in to minimize the possibility of shifting of the gravity/sewer/water line. I was informed yesterday that they have just about come to an agreement on some cost-sharing for that. Might start fairly early spring.” Lawrence, “This is a cost saving to Met Council, so it won’t be passed on to us?” Davis, “No, that is all Met Council’s line.” Jochum, “It would likely be a wash anyways, because there is a tremendous amount of fill that has to be brought in.”

Res. 2012-67
Granting the
Vacation of
Street,
Drainage,
Utility
Easements
Located on
Lot 1, Block 1
and Outlot A,
Classic
Construction
Commercial
Park

Jochum explained that a public hearing was conducted under Agenda Item 4.0 A to receive public comments on the vacation of Street, Drainage and Utility Easements on Lot 1, Block 1 and Outlot A, Classic Commercial Park.

Attached for Council review and approval is Resolution 2012-67, which grants the vacation of the street, drainage and utility easements. As described on the resolution, vacation of the street, drainage and utility easements would be subject to the following:

1. The City Administrator is hereby authorized and directed to execute all such other documents and make such other determinations or actions as are necessary to complete this transaction.

Staff is recommending approval of Resolution 2012-67 Granting Vacation of Street, Drainage and Utility Easements on Lot 1, Block 1 and Outlot A, Classic Commercial Park.

Voss made a motion to adopt Resolution 2012-67 Granting Vacation of Street Drainage and Utility Easements on Lot 1, Block 1 and Outlot A, Classic Commercial Park. Moegerle seconded.

Moegerle, "How is Lot 2 going to be accessed?" Davis, "At the end of the cul-de-sac." Moegerle, "Is there a street platted here at the north end?" Davis, "There is a street platted here, 189th Avenue, but I see no value for that street to ever be built." Voss said isn't it just platted on the north side? Davis, "That is correct." Moegerle, "So you are suggesting by vacating this that northern road will never be developed?" Davis, "Even if it is, Ulysses will tie into that. The western part of it is one of our service road plans. The cul-de-sac there is no value to the property and it is holding up their closing."

Voss asked, so what is shown dark is what is going to be constructed and is what they have out there now? Jochum, "Just the cul-de-sac wings are being vacated." Voss asked when did these wings get on there? Jochum, "They have been on there since 2005." Voss said and then when the bank came, we didn't make them develop it. Moegerle, "The title makes it sound like more than just 'wings'." DeRoche, "Will we have problem with drainage where these wings were supposed to be?" Davis, "Only if you built a cul-de-sac. We still retain a 66 foot right-of-way there." **All in favor, motion carries.**

2013 Budget
Discussion

Davis explained Council approved a preliminary budget and levy on September 5, 2012 and submitted this to the Anoka County Auditor. The preliminary levy was used to provide property taxpayers with parcel specific notices in November for pay 2013 taxes. The final 2013 Budget and levy will then be adopted by City Council in December. The final levy adopted in December 2012 cannot be increased from the preliminary levy, but can be reduced.

At the October 17, 2012 City Council meeting, a list of potential reductions to the proposed budget was reviewed. City Council directed that the proposed budget be reduced by the items on the list, less the \$21,000 for the delay in hiring of a Public Works employee in 2013. The reductions are listed in Attachment #1 along with the resulting revenue and expenditure summary. All attachments proposing different alternatives include these reductions in expenditures.

In addition to these reductions, provision of services for other municipalities could produce other potential sources of non-tax revenues, such as proposed building inspection services to Oak Grove. Attachment #2 – Alternative #1 is a revenue summary that includes \$60,000 of additional revenue for building inspection services. This would produce a levy reduction of 0.97%.

Attachment #3 –Alternative #2 is a revenue & expenditure summary that reflects delaying the hiring of a Building Inspector until April 2013, if an agreement for building inspection services with Oak Grove is not entered into for 2013. This would reduce expenditures \$18,550 and produce a levy reduction of 0.05%

The proposed reductions listed in the attachment do not address the projected \$91,000 bond payment deficit for 2013. The following are the more common means by which this item or other MCES obligations could be considered:

- 1.) Utilize the projected 2012 budget savings (amount staff projects the budget will be under the approved 2012 budget) of approximately \$125,000 to cover this cost;
- 2.) Use of 2011 Sheriff's Department escrow, 2013 budget contingencies and any necessary amounts from the 2012 budget savings to pay for the deficit;
- 3.) Utilize the potential revenue of approximately \$60,000 that could be derived from contractual services with other units of government and a combination of general fund monies, escrow carry-overs, 2013 budget contingencies or further reductions in 2013 budget to accommodate the balance; and/or
- 4.) Divert the required amount of funds from the City's transfer payments, either total or partial, from the Streets, Parks and/or Trails Capital fund or the City's HRA monies for this expense.

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 (\$91,000 is the difference between the 2012 project cash balance carry-over of \$241,812 and the projected 2013 SAC, WAC and assessment fees of \$375,200 that will be collected from the Municipal Utilities Project subtracted from the bond payments for 2013 of \$708,388).

The Fund Balance information for the General Fund is as follows:

December 31, 2011 Fund Balance	\$2,254,404
Estimated 2012 Revenues over Budget:	\$15,000
Estimated 2012 Expenditures under Budget:	<u>\$125,000</u>
Estimated December 31, 2012 Fund Balance	<u>\$2,394,404</u>

Projected December 31, 2012 fund balance of \$2,394,404 is 49.8% of the preliminary 2013 General Fund Expenditures of \$4,811,223. If this projected fund balance is reduced by \$91,000 for bond payments, the projected December 31, 2012 fund balance of \$2,303,404 is 47.9% of proposed 2013 General Fund expenditures. The State Auditor recommends a fund balance between 35-50% of the following years' budgeted expenditures.

Staff is requesting Council direction for any or other proposed 2013 Budget adjustments.

Moegerle, "I think it is \$109,000 that is owed to Met Council next year? Is that accounted for in these numbers?" Davis, "That is a difference in what we project we will take in from SAC fees this year operating fund budget and will owe in fees to Met Council. This is a goal.

They are a moving target. It is something that could change. We will discuss this in the agenda item after the reader board. Met Council had agreed to some considerations in how we address these. These costs are associated with the project; enterprise fund costs. They are supposed to be paid by user fees, not as part of the general fund budget. Like our water and sewer funds we have at Whispering Aspen. There may some situations where we have to pay for these out of other funds than what is generated out of the project. This gives us a way to track those so eventually they can be repaid back to the City.” DeRoche, “Right. But the \$109,000 ‘maybe’ charges are based on the businesses that are currently down there. Have we communicated with them to find out if they have to mandatorily hook-up are they going to leave? Are they for it? We can sit here and say they are going to hook-up because we are going to make them, but what is going to be the repercussions of that?”

Davis, “The repercussions are that everyone is going to have to hook-up in that district and there will be an ordinance that will be presented to Council in December that will include the recommendation for mandatory hook-up. If we don’t have mandatory hook-up there is no way this project is going to succeed. People are going to have to hook-up to it to generate the revenue. Whether existing or new businesses. It may not be something we like, but it has to be done.”

DeRoche, “I understand that. But, I thought somewhere along the line we were going to discuss or pick their brains or bounce it off them, ‘If this comes along can you afford it or what are you going to do?’ It would be nice to get an idea where they stand. Because if we say it is mandatory you hook-up and they say, “You know what, we just can’t do it. We are out of here.” Davis, “That is something we are exploring in trying to develop this revolving loan program. We have looked at other ways of considering transferring ERU’s to other parcels, which I don’t think will work. But, we have had many discussions on what we can do to mitigate and limit the impact on people that are in this zone. I don’t think it was ever considered optional for these people to ever not hook-up.”

DeRoche, “I beg to differ on that one. But, whether it is coming from general fund or revenue bonds, if the revenues aren’t generated, then it is going to affect the budget. The money has to come out of there, correct?” Davis, “It will, but there will have to be a way to repay it. Remember too, that a lot of these things we really won’t know what the obligations or costs are for 2013 until the end of 2013. We will be collecting some user charges next year. There will be hook-ups. So, at that time, we will know what that final number is. That is something to address for the 2014 budget, rather than the 2013 budget. Also, Met Council is moving everything back a year.”

DeRoche, “They are not just moving it back. They are doing it with growth interest in mind.” Davis, “They are moving it back. Anything we do to alter their numbers or how their costs are calculated. So, if we reduce goals upfront and backload them on the end of the project, that is when there would be additional interest charges that would be imposed. And that is brought up in the other agenda item too.”

Moegerle, “I have a question on where we are at with the potential revenue derived from contractual services with Oak Grove?” Davis, “We have submitted the proposal to Oak Grove. Initial feedback is they are happy with the proposal. This will be submitted to their City Council next Tuesday for approval.” Moegerle, “I would like to go that way, because looking over other things in this packet and other concerns that we have, I think that so long as we have a contingency in our accounts (to pay for some of these major bills that are coming up with regard to that) it is all to the better. If we use the \$60,000 (and I forget; was it

a .97% decrease?).” Davis, “That is correct.” Moegerle, “It is one of those things I don’t think we should be counting on from year-to-year until we get some experience on whether it works with Oak Grove and it works with East Bethel. But, if I recall right, it is four hours a week.” Davis, “We would office there four hours a week, the rest of the services will be provided from this location.”

Moegerle, “Because I am looking at page 92 and that is two million dollars that we owe. 2014 net negative \$727,464.” Davis, “Here again, keep in mind that these are just projections. The only one that is for certain is the first year. And that is not certain either. There could be things that could increase that.” DeRoche, “All these figures are just the costs initially, correct? For the bonds?” Davis, “The chart on page 92 is just for the bond payment. The other charts that are presented in the MCES agenda item include SAC goals, changes in SAC rate; things that we just briefly touched on here in this discussion.” DeRoche, “So even if we assessed this year it is not in effect until next year.” Davis, “We will hold assessment hearings hopefully sometime this summer. Those assessments will not be payable until sometime in 2014.” Moegerle, “Because, it seems to me, that floating a \$109,000 could be covered by the budget savings under number one... if that realizes as we are thinking. And we could still cut taxes, not gut our rainy day fund. It is an uneasy compromise, but it does cut the taxes a little bit.”

DeRoche, “Like I said at the last meeting, nobody wants to raise taxes ever. But, I think enough people are aware of the fact that you have the City budget, you have the City services, and along comes this project that has to be paid for in some point in time. Taxes will go up in some point in time.” Moegerle, “And we are working very hard to prevent that.” Davis, “And you know I think everybody up here is extremely sensitive to that. I am. The goal is to avoid that. There may be some years that there is no growth. There may be years that there is more growth than we anticipate. This is going to have to be a year to year thing that we take a look at. There are too many variables in play.”

Lawrence, “You know that I do not want any kind of tax increase. One question I do have is we are approving a \$3,000 lighting system out front and looking at an electronic reader board for another \$80,000 more. How do we justify spending all this money when we can’t even provide a tax cut, or a zero levy tax on our current budget?” DeRoche, “At some point, you have to have a reader board. You have to have some kind of an identity. The reader board we had was trashed and it is part of the economic development. Somebody comes driving into this City and sees that.” Lawrence, “I am not saying we don’t do it.”

DeRoche, “You want justification and this is why. I heard people. ‘We want a pretty City. We want this,’ and ‘We want that.’ Well you know what? It is the identity of the City and a lot of the cities have them. It says something about the City. The light for City Hall should have been done a long time ago. It is something that if people aren’t familiar with it, they blow right by it. I think most people in this City are smart enough to reason this out and realize it is not frivolous spending. If you can explain why you are going to do what you are going to do, people find it a lot more acceptable. Rather than, ‘This is what we are going to do,’ and just moving on.”

Moegerle, “Also, for the reader board we have a budget of \$105,000 and the estimates here are \$80,000. And we can do that without raising taxes. I think it is wonderful we will be able to get these things without raising taxes. We are talking about almost a 1% net decrease.” Lawrence, “We have been chipping it off and getting it lower and lower, but we haven’t decided to get the levy to zero. The levy is still where it is at whether we lower the

budget or not.” DeRoche, “Well sure it is. The stuff we are adding, it is still lowering that and getting below the levy. We are saying, ‘We can cut here and do this.’ But, at some point, if we cut here it will affect the services. That is when we would have to raise.” Moegerle, “I am looking at page 89 and it is a net negative .134%. Alternative two is a negative .045% levy. I don’t see that these alternatives are unreasonable. We are doing better than a zero increase. We are doing a net negative increase.” DeRoche, “And still getting stuff done.”

Davis, “The preliminary budget that was approved on September 5th did reflect like a 6/10’s of a percent increase in the levy rate. We are having these budget discussions continuously until December to see if there are any further adjustments that you want to make. There won’t be any final budget until December, because the public hasn’t had a chance to comment on this. So, what we are offering here are two ‘under budget’ alternatives. One reflects a .05% decrease in the levy and one that reflects almost a .1% decrease in the levy. Both would be reductions and it would just depend on which way we want to go with it. One features \$60,000 more in revenue and other features an \$18,000 cut. We receive a lot of complaints, primarily from businesses, that we didn’t cut the levy. ‘Our taxes went up.’ Generally, taxes on businesses go up not because of the City. Sometimes, but not this year, because of the County. Sometimes, but not this year, because of the schools. But because the State of Minnesota imposes a property tax and there is a fiscal disparity cost that has to be borne. A lot of times when people complain that their taxes go up, they need to check all those items.”

DeRoche, “When I brought this up, about 10-13% is City tax, 10-15% is County tax, school tax was unbelievable. This was discussed at the businesses meeting at Route 65. And then someone actually gave me the numbers. Again, people need to actually look at their tax statement and see what part is the City. I don’t know of too many cities that can go a negative levy and still keep the services up. You still have fire, you still have police, and you are getting a sign put up. We are still taking care of things. At some point, you need to stop and say, “We can’t cut anymore.” Davis, “One other thing is to point out as far as tax cuts go, some of our surrounding cities have had tax reductions. A couple of those have used their general fund to fund that tax reduction. What we have done is gone back and cut items in the budget.”

Electronics Reader Board

Davis explained that at the June 6, 2012 City Council meeting, direction was given to staff to seek proposals for replacing the storm damaged City Billboard located at the intersection of Viking Boulevard and Hwy. 65. This item was presented to City Council on July 18, 2012 for consideration. At that time, the request to bid this project was tabled until the 2013 City Budget discussions had been concluded. At the September 19, 2012 City Council meeting, direction was given to staff to advertise for sealed bids using the approved bidding requirements.

Bids were received from two companies and opened on October 16, 2012.

Arrow Signs of East Bethel has provided references of previous work that includes the Maple Grove Community Center and Blaine Tire and Auto.

DeMars Signs of Coon Rapids has provided references of previous work that includes the City of Andover community billboards and the Anoka County Park Department electronic billboards.

BID RESULTS

Company	Base Bid	Alternate #1 Color Display	Alternate #2 Upgraded Finishes	Alternate #1 & #2
Arrow Sign (Daktronics 34 mm display)	\$70,455	\$77,355	\$74,930	\$81,830
DeMars Signs (Daktronics 34 mm display)	\$60,377	\$67,917	\$66,683	\$74,223
DeMars Signs (Watchfire 35 mm display)	\$52,877	\$62,577	\$59,183	\$68,883
DeMars Signs (Watchfire 25 mm display)	-	\$67,631	-	\$73,937

Staff will provide samples of the material used for wrapping the posts under Alternate #2 at the November 7th City Council meeting.

Approximately 8-10 weeks will be required for installation. The project could be completed by early 2013. All of the LED message boards will have a 5 year warranty. Control of the sign would take place at City Hall and be transmitted via a cellular modem or broadband modem to the sign and would require a monthly fee for the cellular service. The monthly fee estimates range from \$30.00-\$70.00, depending on the service provider.

There is currently \$50,000 in the 2012 EDA budget and a preliminary approval of \$45,000 for the 2013 EDA budget for an electronic reader board sign. The East Bethel Seniors have provided a donation of \$5,000 toward the sign and the City has received \$2,800 as a damage claim payment, bringing the total available funds for the project to \$102,800.

Staff is requesting Council approval for the selection of one of the presented options for an electronic reader board to be located on the NE corner of Viking Blvd and Hwy 65. Staff recommends the selection of both alternate bids from DeMars for \$73,937.00. The selection of this bid would provide full color and higher resolution signs that would be easier to read and more engaging for viewers. The higher resolution signs will also provide more opportunities for showing media in different formats as future needs require. Also, Ayshford has been in contact with the Hoffman's. Currently, the sign, where it is located, has no lease. He has worked with the city attorney to get a lease prepared. We will take this lease down to the Hoffman's and they have agreed to sign it. So, if the bids are approved, they would not be awarded officially until the lease is signed.

DeRoche, "On page 100, can this be reversed, can brick be on right?" Davis, "These are just displays of other signs. Page 99 shows the architectural treatment. We would cover up the other legs of the sign." Moegerle, "But, for the fact they couldn't spell 'Fourth of July', I really liked the one on page 97. I like the three-dimensional 'City of East Bethel'. I thought that was very attractive and I thought the rendering was very neat. When I look at page 99, it looks like Spongebob Squarepants with boots on." Davis, "The one on 99, I would look at what could be done as a representation with stone. The painting is a little off." DeRoche, "The one on page 100, how big is the platform?" Nate, "Both would have raised numbers. The 25 millimeter will have higher definition resolution."

DeRoche, "Is there any way to put something between the columns?" Davis, "You could. The architectural treatment could be done separate. The important thing is to get the reader board up and if a different treatment is to be considered, we can do that later. We had talked about this, stone around the columns and make them more pyramid." Voss said like they

have done with the billboards in White Bear. It is pyramids, but different.

Lawrence asked Ayshford, "Can you describe difference between Daktronics and Watchfire?" Ayshford, "Daktronics has been the industry standard for a long time. They do a lot of scoreboards at stadiums and such. Watchfire? The City of Andover has a Watchfire display and they have been very happy with it." DeRoche, "That is a spot where you get sun at different times and you have people driving up the highway. So it is going to have to be something that they are not going to have to try and focus on." Davis, "This faces east/west, so there will be times when sun is a little of a problem. If it was orientated the other way it would really be a problem."

Voss made a motion to approve Demars bid 25 mm, in the amount of \$73,937, option on page 99 with alternatives 1 & 2. Also request an alternative base design that is full base, instead of posts, with more of a monument look to be brought back to Council for approval. Moegerle, "I like the architectural standards of the monument, it looks established." Davis, "You could add a smaller curve to the top." Voss asked can we specify that it is LED? Ayshford, "Yes." DeRoche, "How tall is this?" Ayshford, "About 20 feet to the top of the sign." **DeRoche seconded. Moegerle, nay; DeRoche, Lawrence and Voss, aye; motion carries.**

MCES Proposal

Davis explained that staff has conducted three meetings with the MCES to explore means to lessen the fiscal impact 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 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 Friday of this week 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;

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 would be \$117,245.11 based on the hypothetical level amortization schedule included as Attachment #3. 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 acceptance and approval of these modifications may require an amendment to our agreement with MCES.

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. The effect of these proposals would be to transfer or “backload” to the latter half of the schedules for payments. This would, hopefully, provide the City with an additional grace period while a customer base can be established and market conditions have a chance to be more conducive to development opportunities.

There is a cost to deferring these obligations and these costs would ultimately be passed along in the form of higher user charges or SAC 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:

- 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. These interest costs are based on a rate of 3.6% of the beginning year balance. It does appear that it may 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 2027 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.

Staff recommends Council discuss the implications of the proposed adjustments to the MCES agreement as presented and if additional discussion is required, that a work meeting be scheduled at a time of Council’s convenience to further examine this proposal or any other budget matter.

Moegerle, “This was pretty heavy reading. ‘Unbelievable’ was first. And ‘mind-numbing’ was second. There were others that follow. I think that having an initial lower SAC rate will at least make us competitive with the surrounding areas. I realize that if you are doing that, now you are back loading it. And as a philosophical matter, we should pay as we go, and not

burden people down the road. On the other hand, the whole idea on this thing was 'While we would be a slow start-up, that we would thrive later.' While I am not sure I believe that, and if I vote to say 'Let's backload it and have the decreased rate now,' then that doesn't meet my philosophical view. So, I am really at a crossroads with this on what we need to do. But, I do think being competitive with the surrounding region is important."

DeRoche, "I am going to agree, but the annual increase at a rate of 17%. Right now we are not even doing four or three. And what we are doing is back loading it, but also adding interest. And part of the budget discussion tonight was 'We don't like to raise taxes.' Well, do you raise them a little and try to go into this? Or do you say, 'We are just going to go into this thinking money trees are going to sprout throughout the City and we are just going to pay for it all at once?' I would rather not kick it down the road."

Davis, "And we are not requesting that you vote on this tonight. I just wanted to present it. I do think this is something that does warrant a work session. To go over these schedules and more details. Also, that everyone is totally aware of the implications and the possibilities." DeRoche, "I know some of the conversations and numbers and but how did they come up with them? It was all part of how this negotiation came out. Do I think the City was given good numbers? No, I don't. It sounds like they think they are doing us a favor, but it is now. They recommended we grant the contractor another year because they didn't think we could successfully defend that. At some point, Met Council needs to sit down with us and say, 'We all made mistakes here.' Not, 'East Bethel, look what you have done.' If somebody could show me any numbers of growth. If we can't hit the 10.6% how are we going to hit the 17%? And what is going to happen, is we are going to be paying more subsidies and now we are also going to be paying more interest on it too. Eventually we are going to have to pay those SAC charges." Davis, "Those are not City SAC charges; those are Met Council SAC charges."

Lawrence, "I think that, looking at letter D on page 102, it talks about the SAC rate at \$3,400 at 3% and we would reduce it to \$3,000 at 3.7% annually. We have to get a little more explanation of what it means in the competitive market and what it will mean on the fiscal cost in the end." Davis, "To me, this is one that we are going to benefit. Even though the SAC rate is going to increase at a higher rate, it is going to take it to 2027 to equalize. And at the end of 2030 when it is projected to, it is only \$140 higher. If you want to call that 'back loading' it is much to our advantage to do this. The money we need for SAC and WAC rates are what we are going to use to pay off the bonds. These Met Council SAC rates go into their formula and calculations for their own costs. As long as our SAC rates aren't affected, it doesn't affect our ability to pay off the bonds. We should avoid the additional interest rates if at all possible. It would be better to have a couple hours to go over this at a work meeting."

Moegerle, "Should we do this before the Town Hall Meeting? When we talk about it at a work meeting, I would like to know more about page 129. Since we had that battle at the Planning Commission, it looks like this document, that was signed in November of 2010, talks about changes in the comp plan which I don't think we followed through with. So this is probably the time to go through that right now. If you can let us know if we have obligations to fulfill regarding that."

Davis, "The fulfillment requirements of the comp plan with Met Council is it has to be reviewed every ten years." Moegerle, "It says here, 'That the City shall adopt Official Controls to have planned, orderly, consistent plan as not to conflict with the Comprehensive Plan.' I am wondering whether the City adopted Official Controls or if signing this contract

required us to do other things.” Davis, “There was nothing to be done to my knowledge. And the Comp Plan was approved by Met Council prior to the signing of this agreement. That takes care of this provision.” Voss said the Official Controls are the zoning code. That was done in 2008. And we adopted the official map.

Moegerle, “In regard to page 143 and the Viking ‘muck out’ option? Pickart asks if you are talking to Council on that? This is the first I have heard of it.” Davis, “That is what I referred to earlier on: over excavation on the road construction project with agreement between Met Council and Anoka County. Met Council will probably agree to extra funding on this. But this is between Met Council and Anoka County.” Moegerle, “I have more questions about this, but when can we have a work meeting on this?”

Lawrence, “Voss what is your schedule?” Voss said every other Wednesday I have a City Council meeting. Let’s do it on a Council night. I have no interest in trying to dissect what staff has been working on with Met Council. Voss said I think the approach of being able to lower the initial fees onto our existing businesses that are going to be hooking up, is one of the goals we have had. And, I have heard time and time again how our SAC fees need to be more competitive. Voss said this is one means of doing that. And if the cost of doing that is to assume a higher rate of development in the future, then to me that is a risk worth that cost. Because by lowering that fee it will only make us in a better position to attract new development.

Moegerle, “I agree. I am wondering about these other options, A, B and C. D is a no-brainer, because in the end it is only a \$104 difference. But these other proposals have more long term ramifications and backload.” Voss said to me it gets us to that end point at a different rate of change. Moegerle, “Are you still talking about D or all of these?” Voss said I am talking in general. It seems like you want to go in and dissect forty pages of documents. DeRoche, “We sure have to look at it.” Voss said I looked at it before this meeting, so I was prepared for this meeting. But to sit and dissect what staff has prepared to sit and dissect what staff has been working on with Met Council is a bit ridiculous. But, to understand and support, in general, what staff is working on with Met Council is what is important here.

Davis, “One thing that is important to bring up here is we can pre-pay at any time. There is no penalty for that. We may want to try to pre-pay all that down and then, in 2018, exercise that option.” DeRoche, “I don’t think this is trying to dissect what staff is doing. I think that in 2010 the sewer and water should have never happened. But it did and we are moving forward. And now the option, the financing and the figuring out how we are going to pay for this should have been done before. Now we are trying to muddle through this.” Voss said the fact that you disagreed with it, doesn’t mean it wasn’t done before. DeRoche, “Certainly the repayment wasn’t done before, because no one has offered up any news of development or how the thing was proposed. We asked Boyer very nicely, ‘Is there something we are missing; was there some plan to repay this? How in the world did you guys expect to pay for it?’ How is it going to be paid for?”

Moegerle, “What is the status of your conversation with Village Green?” Davis, “We have a meeting set up for this Friday and we have three proposals to present to them as far as in what their costs would be. They are interested in discussion on this. What we have to do is work out something that is acceptable to both parties. And, if they are interested in pursuing this, then we have to work out some type of an agreement that if there is a transfer of their facility to us, it would have to be dated when they connect to the plant, we have to be taken out of the equation of operating it. There are some things in the options that Jochum has prepared

regarding the property that we might want to use some excess bond funds to pay for. It would help us get user fees.”

Moegerle made a motion to schedule a work meeting for November 21, 2012 at 5:30 p.m. to discuss the MCES Proposals & Options. DeRoche seconded. Voss asked what our agenda looks like for the meeting? Davis, “The agenda is light right now.” Voss said I would rather make it part of the meeting. **Voss, nay; DeRoche, Lawrence and Moegerle, aye, motion carries.**

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”.

City ordinance, Alcoholic Beverages, Section 6-54 reads:

No part of the fee paid for any license issued under this article shall be refunded except in the following instances upon application to the city council within 30 days from the happening of the event. There shall be refunded a pro rata portion of the fee for the unexpired period of the license, computed on a monthly basis when operation of the licensed business ceases not less than one month before expiration of the license because of:

- (1) Destruction or damage of the licensed premises by fire or other catastrophe that the licensee shall cease to carry on the licensed business;
- (2) The licensee's illness which can reasonably be expected to prohibit him from being actively engaged in the licensed business for the remainder of the period of the license;
- (3) The licensee's death;
- (4) A change in the legal status of the city, or some other event making it unlawful for the licensee to carry on the licensed business under his license, except when such license is revoked.

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 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.

The City has never refunded a liquor license fee.

Approval of this request would entitle Mr. Parker to a refund of \$3,083.33. Should a refund be approved, staff recommends that the refund, at the very minimum, be reduced in an amount equal to the time over and above the ordinary effort that was required in the issuance of Mr. Parker’s 2012-2013 City Liquor License. This cost for the additional time for the City Administrator and City Clerk to accommodate Mr. Parker that was spent on this application

is estimated to be \$556.50.

The City Attorney has indicated (see attached correspondence) that we have no way to verify the claimed medical condition and if that condition had any impact on the operation of the business. Staff is seeking direction from Council on this matter.

Lawrence, "I have made contact with Mr. Parker's medical doctor since the information was sent to me. He said it was a genuine condition he has. I asked him if it was a genuine disability condition he has. He couldn't comment any further on that." Voss asked do we know what medical condition it was? Davis, "Yes, we do have an indication of the type of medical condition." Moegerle, "And we asked Boyer at the last meeting if it was anticipated when this ordinance was passed that it would be debilitating, such as hospitalization long-term. Several people have forwarded to me information from Troy's Facebook. But then he has come before us many times and to say and complain that he was being run out of business by taxes. And, so, you weigh it all together and I don't think he has as strong an argument as we would like because of other statements. Currently the ordinance sounds like catastrophe or death."

Lawrence, "I think the consensus is we just don't see it." DeRoche, "Voss have you ever run into this before?" Voss said you can ask staff, but I don't think so. Davis, "The city has never refunded a liquor license from our research. There was a request from the previous owner of Purple Reign. And we replied that we could not accommodate his request."

Davis asked the City attorney, "In your opinion if this is denied, what is our exposure in this?" Vierling, "Very limited. The provisions you have in your ordinance require you to make a judgment call. Not just that there is an illness, but that the illness prevented the owner from operating the business. You simply do not have any details that would allow you to make that conclusion. I can see where Council could defer to staff to make that conclusion if the individual wanted to release those medical records to staff to make that conclusion. It gets a little dicey on how to protect those records in the hands of city staff if someone demanded them." Voss said it is clear from the communications from Troy that this is not the sole reason the business struggled. So, how do you parse that out of the whole deal too? Voss said I interpreted the intent of that portion of our ordinance to be if there is a catastrophic event that makes the owner close the business. That is my interpretation. Lawrence, "That is my interpretation also." Moegerle, "This ordinance should be put on the list of ordinances that need to be tweaked." Voss said maybe, but you interpret it. Lawrence, "Would it be out of line to say we will wait for more information?" Voss said are we going to put this off again? Moegerle, "Well he had 30 days from the 16th, so he still has time. I think 30 days would be the 16th so we wait to see if he provides us with anything else." Lawrence, "We would need more information to make the call. Right now it is insufficient information to make that call."

Voss made a motion to table the Refund of Liquor License for Troy Parker until the next Council meeting. Lawrence seconded. Voss, nay; DeRoche, Lawrence, Moegerle, aye; motion carries.

Council
Reports –
DeRoche

DeRoche, "The fire department had a staff meeting on Monday. I wasn't aware of it, which struck me odd, since I am the liaison. I have no idea what the fire department is up to. There are still a few boats out fishing. The weather is changing. They are still working on the roads.

Council
Reports –
Moegerle

Moegerle, “As I struggled through the minutes, once again we had stupid criminal stories. It doesn’t reflect well on our sheriff’s department that they manage to capture stupid criminals. I would much rather have our time spent on saying how heroically they saved a dog from drowning or whatever. But I would rather hear heroism than stupid comedy and I was disappointed that we have gotten back to that. There was a drop-off day on the last Saturday of each month at the recycling center. What was the attendance?” Davis, “It was rather low. I think they had twelve people that dropped items off. It didn’t receive as much advance publishing as it should have. And I think it is worth continuing and see if there is any improvement.”

Moegerle, “Monday the office here is closed. Thank a Veteran. Thank you, Bob. I got an e-mail from Mary Spivey at Cedar Creek Ecosystem Science Reserve wanting to become more publicly engaged with East Bethel residents. Jack and I went up and met with her. She is excited to come and participate in Booster Days. They want to have a booth with a shuttle bus and the residents can shuttle up there and do citizen research and those kinds of things. They also would like to have a crossing signs on Fawn Lake Drive. We are going to have the Anoka County Commissioner involved in this. The Planning Commission? We have the meeting minutes here. There are some concerns there. And the last item on our agenda brings up the idea that we need to get a small committee together to go over our ordinances and tweak them a little and make them more clear.”

DeRoche, “I have one little tidbit I want to touch on. I did happen to watch that Planning Commission meeting. I don’t know if it was because it was an election year or what. But I felt that the City Administrator caught a lot of disrespect and I heard some comments that certain things are not the Planning Commission’s job and City Council isn’t doing their job so they are pushing it off on the Planning Commission. Davis was really polite at that meeting. If you are on a Commission and you don’t want to do the job, maybe you should find something else to be on. Because I think city staff works hard getting stuff together and there are things that maybe the City Council thinks the Planning Commission should be part of; like zoning, ethics, and if they feel that is no longer their job, then maybe something needs to be changed.

Council
Reports-
Lawrence

Lawrence, “We had the election of course on Tuesday, thank you for the votes. We will have two new Council Members coming in, Mr. Tom Ronning and Mr. Ron Koller. It has been a real busy week. Had a few complaints and handled those fairly well. Had complaints about Mr. Hoppe and dirt works. We need to have something changed to help the residents there because they need some peace and quiet there, not to have someone working.”

Closed
Session –
Litigation-
Employee
Veteran’s
Preference

Vierling, “We will note for the benefit of the public that the City Council is about to go into closed session pursuant to Minnesota Statute 13.D to review certain matters relative to Veteran’s Preference Litigation. After the closed session the City Council will come back into open session to announce any actions that have been taken at that time.”

DeRoche made a motion to go into closed session regarding Veteran’s Preference Litigation. Moegerle seconded. Moegerle, DeRoche, Lawrence, aye, (Voss was outside the Chambers), motion carries.

Vierling, “The Council met in closed session. All four members were present, Mayor Lawrence, and Council Members DeRoche, Moegerle and Voss. Council Member Boyer was not present. Also present were City Administrator Jack Davis and myself. We discussed the veteran’s preference issue, no actions were taken, but they received input and advice from

the city administrator and myself.

Moegerle made a motion to appoint Mike Erickson to the panel with regard to the veteran's preference matter. Lawrence seconded; all in favor, motion carries.

Adjourn **DeRoche made a motion to adjourn at 10:16 PM. Voss seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk