

**City of East Bethel  
City Council Agenda**

**Work Meeting - 7:00 PM**

**Date: October 28, 2015**



		<u>Item</u>
<b>7:00 PM</b>		<b>1.0 Call to Order</b>
<b>7:01 PM</b>		<b>2.0 Adopt Agenda</b>
<b>7:02 PM</b>	pg. 2-8	<b>3.0 Proposed Amendment to Rental Ordinance</b>
<b>7:30 PM</b>	pg. 9-20	<b>4.0 Discussion of Incentives as part of the City's Business Recruitment and Retention Efforts</b>
<b>8:00 PM</b>	pg. 21-31	<b>5.0 Donation Policy</b>
<b>8:30 PM</b>	pg. 32	<b>6.0 Video Indexing of City Council Meeting DVD's</b>
<b>9:00 PM</b>		<b>7.0 Adjourn</b>



# City of East Bethel City Council Work Meeting Agenda Information

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**Date:**

October 28, 2015

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**Agenda Item Number:**

Item 3.0

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**Agenda Item:**

Rental Ordinance Inspection Discussion

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**Requested Action:**

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**Background Information:**

Council approved a Rental Ordinance at their May 20, 2015 meeting. To date we have issued one license but have seven pending completion of inspection. The license fee is \$25 and the inspection fee is \$50.

Several of the applicants that have applied for a rental license have informed us that the septic system inspection is/could be a deterrent to voluntary compliance with the ordinance. Several owners of rental property have been hesitant to comply with the ordinance for fear that their septic systems, while functioning properly, may fail inspection due to changes in state standards for soil separation.

Staff feels that this concern will discourage many rental property owners from obtaining licensure from the City but at the same time will not prevent these owners from continuing to rent their property. If the primary goal of the ordinance is to ensure that rental properties meet life/safety Codes, the septic system issue may be a disincentive to this purpose.

Staff proposes that we explore alternatives/modifications relating septic system inspection as a requirement of the ordinance and consider the focus on systems that are eminent public health threats.

Nick Schmitz, City Building Official, will attend this session of the meeting.

**Attachments:**

1. Rental Ordinance
2. Residential Rental Housing Inspection Guide

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**Fiscal Impact:**

To be determined

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## **PROPOSED ORDINANCE NO. XX**

### **AN ORDINANCE REGULATING RENTAL PROPERTIES IN THE CITY OF EAST BETHEL**

The City Council of the City of East Bethel, Minnesota ordains as follows:

**INTENT:** The Rental Housing Ordinance is intended to protect the public welfare and improve the City's housing stock. The purpose of this Ordinance is to address health and safety issues and insure that renters have a safe dwelling for occupancy. This Ordinance is further designed to ensure that rental housing in the City is sanitary and operated and maintained so as not to become a nuisance to neighboring properties.

#### **Section 1. - License required; definitions.**

- (a) License. No person shall allow to be occupied or let to another for occupancy a unit or units in a rental dwelling for which a license has not been granted by the city.
- (b) Definitions. Unless otherwise expressly stated, the following terms shall, for the purposes of this article, have the following meanings:
  - a) Rental dwelling means any structure or portion thereof which is designated or used for residential occupancy by one or more persons who are not the owner or a member of the owner's family. For the purpose of this ordinance, family is defined as follows: Family means those persons legally related to each other in a linear relationship such as spouses, grandparents, parents, children, grandchildren and siblings. Family does not include branching relationships such as aunts, uncles or cousins.
  - b) Rental dwelling includes commercial living facilities, not governed by state licensing requirements.
  - c) A permanent rental is never used as living quarters for the owner or any dependents he/she claims on his/her federal tax return. A permanent rental is a house, duplex or apartment complex that serves full time as a rental and is not used by a nonprofit organization. (IRS definition)

#### **Section 2. - Application.**

- (a) Before any license shall be issued or renewed, the owner of the rental dwelling shall complete an application. The following persons shall be authorized to sign and submit the application:
  - (1) If the owner is a natural person, by the owner thereof.
  - (2) If the owner is a corporation, by an officer thereof.
  - (3) If the owner is a partnership, by a partner thereof.
- (b) The application shall be made on a form prescribed by the city and shall include:
  - (1) The name and address of the owner of the rental dwelling.
  - (2) The name and address of any operator or agent actively managing the rental dwelling.
  - (3) If the operator or agent is a business entity, the application shall include the names, telephone numbers and addresses of individuals who will be involved in such management, together with a description of the scope of services and manner of delivering these services by the manager.
  - (4) If the applicant is a corporation, the name and address of all officers.
  - (5) If the applicant is a partnership, the name and address of all partners.
  - (6) The legal address of the rental dwelling.
  - (7) Owner, agent or manager that notices or violations should be directed to pursuant to this article.

#### **Section 3. - License issuance.**

- (a) The city may issue a license if the building and the application are found to be in compliance with the

provisions of this article, applicable State and City Building Codes and with the Property Maintenance Code, Article VI set forth in the East Bethel City Ordinances and provided that all real estate taxes and municipal utility bills for the premises have been paid. Real estate taxes will not be considered to be unpaid for purposes of this section while a proper and timely appeal of such taxes is pending.

#### **Section 4. - Term of license.**

Licenses will be issued for a two year period, and the license term shall commence on January 1, XXX or the date issued and expired on December 31, XXX

#### **Section 5. - License fees.**

- (a) The license fees shall be established by resolution. The license fee shall be collected for each building and unit in a rental dwelling.
- (b) Except in the first year of the program, if an application for a license is made after January 1, XXX a late fee as established by resolution, will be added to the initial license fee. For each subsequent 30-day period an additional late fee will be imposed.

#### **Section 6. - Posting of license.**

The licensee shall post a copy of the license in the dwelling in the kitchen or garage or other place that can be viewed at the time of inspection.

#### **Section 7. - Transfer of license.**

A license is transferable for a fee to any person who has actually acquired legal ownership of the rental dwelling. The transfer shall be effective for the unexpired portion of the license period, provided that a transfer application is filed with the city prior to the actual change of legal ownership and that the transferee is not disqualified from holding the license. A license shall terminate upon an owners failure to apply for a transfer prior to change of legal ownership. The fee for the license transfer shall be established by resolution.

#### **Section 8 – Prior to Issuance of Residential Rental License**

1. The septic system must pass a compliance inspection.
2. The septic tank must have been pumped in the past three years.
3. A permit application must be completed by the owner or owner's agent.
4. The permit fee must be paid.
5. The house, accessory buildings and the property must pass the residential rental inspection that is conducted by the City of East Bethel Building Department and meet all applicable State and City codes.

#### **Section 9 – Inspections on Rental Units**

The City will conduct rental inspections every two years prior to the renewal of a license. Fees for re-inspection and violations will be set by City Council an annual basis and be listed in the City's Fee Schedule. Inspections will be scheduled within 60 days of the expiration of the license.

#### **Section 10. - Suspension, revocation, denial, nonrenewal.**

- (a) Hearing Suspension, revocation, denial and/or non-renewal are the last step for any enforcement matters. All reasonable efforts will be made to resolve any enforcement or violation issues within a progressive system of notifications and provisions of reasonable times allowed for corrections. Should the process to achieve compliance be unsuccessful, action to deny, revoke, suspend, or not renew a license under this article shall be initiated by the city by giving written notice to the licensee of a hearing before the city council to consider such denial, revocation, suspension or nonrenewal. A

written notice shall specify all violations and shall state the date, time, place and purpose of the hearing. The hearing shall be held no less than ten days and no more than 30 days after giving the notice. In such hearing the city council shall give due regard to the frequency and seriousness of violations, the ease with which such violations could have been cured or avoided and good faith efforts to comply with city requirements. Following the hearing, the city council in its sole discretion may deny, revoke, suspend, or decline to renew the license for all or any part or parts of the rental dwelling, or may grant a license upon such terms and conditions as it deems necessary to accomplish the purposes of this article. Further, an action to deny, revoke, suspend, or not renew a license based upon violations of this article may be postponed or discontinued at any time if it appears that the licensee has taken appropriate measures which will prevent further instances of disorderly use. The city council shall issue its decision upon written findings.

- (b) Reason for action. The city council may revoke, suspend, deny or decline to renew any license issued under this article upon appropriate grounds including, but not limited to, the following:
  - (1) False statements on any application or other information or report required by this article to be given by the applicant or licensee.
  - (2) Failure to pay any application fee, penalty, re-inspection, or reinstatement fee required by this article and resolutions.
  - (3) Failure to correct deficiencies noted in notices of violation in the time specified in the notice.
  - (4) Any other violation of this article.
- (c) Reinstatement of license. Upon a decision to revoke, deny, or for non-renewal of a license, no new application for the same rental dwelling will be accepted for a period of time specified in the written decision of the city council, not to exceed one year. Any such new application must be accompanied by a reinstatement fee, as specified by resolution, in addition to all other fees required by this article.
- (d) No new rentals. A written decision to revoke, suspend, deny, or not renew a license shall specify the part or parts of the rental dwelling to which it applies. Thereafter, and until a license is reissued or reinstated, no rental units becoming vacant in such part or parts of the rental dwelling may be re-let or occupied. Revocation, suspension or nonrenewal of a license shall not excuse the owner of a rental dwelling from compliance with the terms of this article for any other unit or units in the rental dwelling which remain occupied.
- (e) Failure to comply. Failure to comply with any term of this article during a period of revocation, suspension, or nonrenewal is a misdemeanor and is also grounds for extension of the term of such revocation or suspension or continuation of nonrenewal, or for a decision not to reinstate the license, notwithstanding any limitations on the period of suspension, revocation or nonrenewal specified in the city council's written decision.

### **Section 11. - No retaliation.**

No licensee shall evict, threaten to evict, or take any other punitive action against any tenant by reason of good faith calls made by such tenant to law enforcement agencies relating to criminal activity, suspected criminal activity, suspicious occurrences, or public safety concerns. This section shall not prohibit the eviction of tenants from a dwelling unit for unlawful conduct of a tenant or invitee or violation of any rules, regulations or lease terms other than a prohibition against contacting law enforcement agencies.



## RESIDENTIAL RENTAL HOUSING INSPECTION GUIDE

Date of Inspection \_\_\_\_\_ Time of Inspection \_\_\_\_\_

Address \_\_\_\_\_

Owner \_\_\_\_\_ Phone \_\_\_\_\_

All items will be noted as (not apply, acceptable, needs repair or hazardous)

### BASEMENT

Stairs, Handrails and Guardrails (not apply, acceptable, needs repair or hazardous)

Mold (not apply, acceptable, needs repair or hazardous)

Egress Window or Door & Condition (not apply, acceptable, needs repair or hazardous)

Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)

Note \_\_\_\_\_

### BUILDING INTERIOR

Mold (not apply, acceptable, needs repair or hazardous)

Stairs, Handrails and Guardrails (not apply, acceptable, needs repair or hazardous)

Smoke Detector(s) (not apply, acceptable, needs repair or hazardous)

An approved Fire Extinguisher (not apply, acceptable, needs repair or hazardous)

Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)

Note \_\_\_\_\_

### BEDROOM(S)

Mold (not apply, acceptable, needs repair or hazardous)

Egress Window Sizes and Condition (not apply, acceptable, needs repair or hazardous)

Smoke Detector inside & outside each bedroom (not apply, acceptable, needs repair or hazardous)

C/O Detector within 10 feet of each bedroom (not apply, acceptable, needs repair or hazardous)

Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)

Note \_\_\_\_\_

### BATHROOM(S)

GFI Outlets in Hazardous Locations (not apply, acceptable, needs repair or hazardous)  
Mold (not apply, acceptable, needs repair or hazardous)  
Condition of Windows and Doors (not apply, acceptable, needs repair or hazardous)  
Floor Condition (not apply, acceptable, needs repair or hazardous)  
Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)  
Note \_\_\_\_\_

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**KITCHEN**

GFI Outlets in Hazardous Locations (not apply, acceptable, needs repair or hazardous)  
Mold (not apply, acceptable, needs repair or hazardous)  
Floor Condition (not apply, acceptable, needs repair or hazardous)  
Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)  
Note \_\_\_\_\_

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**ELECTRICAL**

Electrical Service Installation/Grounding (not apply, acceptable, needs repair or hazardous)  
GFI Outlets in Hazardous Locations (not apply, acceptable, needs repair or hazardous)  
Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)  
Note \_\_\_\_\_

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**PLUMBING SYSTEM**

Water Heater (not apply, acceptable, needs repair or hazardous)  
Sanitary Conditions (not apply, acceptable, needs repair or hazardous)  
Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)  
Note \_\_\_\_\_

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**HEATING SYSTEM**

Heating Unit (not apply, acceptable, needs repair or hazardous)  
Mechanical Exhaust (not apply, acceptable, needs repair or hazardous)  
Combustion Venting (not apply, acceptable, needs repair or hazardous)  
Clothes Dryer Vent (not apply, acceptable, needs repair or hazardous)  
Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)  
Note \_\_\_\_\_

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**SOLID FUEL FIREPLACES or WOODSTOVES**

1. The fire box may not contain missing or loose fire brick or mortar.
2. The hearth extension shall be noncombustible and extend a minimum of 16 inches to 20 inches from the fireplace opening.
3. Combustible mantles are not permitted within 12 inches of fireplace opening.
4. An operable damper is required. Check for signs of smoke back-drafting around fireplace openings, screens, and through finish joints.

Note \_\_\_\_\_

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**ENERGY INFORMATION**

**BUILDING EXTERIOR**

Foundation (not apply, acceptable, needs repair or hazardous)  
Drainage (grade) (not apply, acceptable, needs repair or hazardous)  
Open Porches/Stairways and Decks (not apply, acceptable, needs repair or hazardous)  
Gutters & Downspouts (not apply, acceptable, needs repair or hazardous)  
Chimneys (not apply, acceptable, needs repair or hazardous)  
Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)  
Note \_\_\_\_\_

**ACCESSORY STRUCTURE(S)**

Slab Condition (not apply, acceptable, needs repair or hazardous)  
Garage Opener(s) (not apply, acceptable, needs repair or hazardous)  
Other \_\_\_\_\_ (not apply, acceptable, needs repair or hazardous)  
Note \_\_\_\_\_

**SEPTIC SYSTEM**

Septic <sup>[ANI]</sup> System Compliance Inspection (Pass or Fail)  
Septic System Pumped In the Past Three Years (Yes or No)  
Note \_\_\_\_\_

THIS AREA TO BE USED BY CITY STAFF

\_\_\_\_\_ The **House and property** have **Passed** inspection.  
\_\_\_\_\_ The **House and property** have **Failed** inspection. All corrections must be corrected by \_\_\_\_\_.  
\_\_\_\_\_ The **House** is **Hazardous** to human life and must be vacated by \_\_\_\_\_.

Comments

Building Inspector \_\_\_\_\_



# City of East Bethel City Council Work Meeting Agenda Information

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**Date:**

October 28, 2015

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**Agenda Item Number:**

Item 4.0

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**Agenda Item:**

Business Recruitment Strategies – City Assistance

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**Requested Action:**

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**Background Information:**

The City has provided varying forms of administrative assistance that have supported the expansion of existing business and recruitment of new business. These efforts, with the exception of the creation of one TIF District, have been primarily staff support relating to guidance through City zoning and ordinance requirements and provision of information and data needed for business development decisions.

In addition to the basic administrative support, other forms of City assistance need to be discussed to determine what level the EDA and ultimately City Council believe to be appropriate for consideration. Absent a defined policy, evaluations of any type of offers of assistance would be considered on a case by case basis. However, to provide consistency with offers of assistance, minimum standards for eligibility need to be considered.

Financial assistance is the primary tool that is most commonly used by other Cities in their efforts to retain and attract business. A Cities ability to offer this form of incentive is based on its capacity to postpone and/or forego revenues and depends on a City’s position related to its need for development and public competition in this market.

The forms of financial incentives are varied but most commonly associated with the following forms:

- Tax Increment Finance Districts
- Tax Abatement
- Sales of Public Lands and Buildings
- Subsidies
- Modification or deferment of City Fees
- Participation wholly or partially in Infrastructure Improvements.

Staff is seeking input from Council as to their opinions on the issue of incentives and to determine if there is a need to consider further discussion of a general policy that relates to this matter.

**Attachments:**

1. Elko-New Market Business Assistance Policy

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**Fiscal Impact:**

To be determined

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**CITY OF ELKO NEW MARKET, MINNESOTA  
BUSINESS ASSISTANCE POLICY**

**Adopted July 26, 2012**

**I. PURPOSE**

The purpose of this policy is to provide guidance for the City of Elko New Market (the City) in its provision of assistance for commercial and housing development and redevelopment projects. As a matter of adopted policy, the City will consider using public assistance to assist private development only in those circumstances in which the proposed private project shows a demonstrated financing gap, meets one of more of the goals presented in the City's Economic Development Strategy and Action Plan: 2012 - 2014, and is consistent with the City's Comprehensive Plan.

This policy shall be used as a guide in processing and reviewing applications requesting public financing assistance. The City shall have the option of amending or waiving sections of this policy when determined necessary or appropriate. This City policy is also substantially identical to the business assistance policy adopted by the City's Economic Development Authority (EDA) Board on July 26, 2012. Although the EDA is expected to be the primary venue for the review and implementation of public financing proposals, it is advisable for both the City and EDA to adopt individual policies guiding the provision of public financing assistance.

**II. STATUTORY LIMITATIONS**

All forms of business assistance provided by the City must comply with applicable state law and regulation, including *Minnesota Statutes* 116J.993 through 116J.995. *Minnesota Statutes* 116J.993, Subd. 3 defines a Business Subsidy as "a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business." Appendix A lists forms of financial assistance that state law does not consider business subsidies.

A business subsidy may not be granted until the grantor has adopted criteria after a public hearing for awarding business subsidies. A grantor may deviate from its criteria by documenting the reason for the deviation and attaching a copy of the document to its next annual report to the Department of Employment and Economic Development (DEED). A copy of the criteria must be submitted to DEED along with the first annual report following the enactment of the Policy or with the first annual report after it has adopted criteria, whichever is earlier. Notwithstanding *Minnesota Statutes* 116J.993, subdivision 3, clauses (1) and (21), "business subsidies" as defined under section 116J.993 includes the following forms of financial assistance: (1) a business subsidy of \$25,000 or more; and (2) business loans and guarantees of \$75,000 or more.

**III. GOALS**

As a matter of adopted policy, the City will consider using a business assistance tool to assist private development only in those circumstances in which the proposed private project shows a demonstrated financing gap, meets one of more of the goals presented in the City's Economic Development Strategy and Action Plan: 2012 - 2014, and is consistent with the City's

Comprehensive Plan. The City’s primary development priority is to encourage high-value commercial development, including but not limited to manufacturing, warehousing, distribution, office and retail uses. Senior residential and other multi-family housing proposals may be considered for assistance on a case-by-case basis. In all instances, the terms and conditions of any business assistance are to be decided at the discretion of the City Council.

#### IV. PUBLIC ASSISTANCE TOOLS

##### 1. Tax Increment Financing

Tax increment may be spent only for specified purposes permitted in the underlying development statutes. The Minnesota Tax Increment Act is codified as *Minnesota Statutes* 469.174 through 469.1811. In addition, the Tax Increment Act specifies the qualifying conditions and/or development purposes for several types of TIF districts, and the required process for establishing and reporting on a TIF district.

##### 2. Tax Abatement

Tax abatement may be spent only for specified purposes permitted in the underlying development statutes. The Minnesota Tax Abatement Act is codified as *Minnesota Statutes* 469.1812 through 469.1815.

##### 3. City Fees

The City may consider deferring or assessing City fees for purposes permitted in the development statutes and City Code. Whether a particular fee is eligible to be deferred or assessed over time may depend on the City Fund’s ability to support the deferment.

#### V. BUT FOR TEST

With tax increment financing, the City is statutorily required to find that the increased market value of the site that could reasonably be expected to occur without the use of TIF would be less than the increase in the market value of the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the TIF Plan according to *Minnesota Statutes*, Section 469.175, subd. 3(d).

This market value-based “but for” analysis is required only for TIF projects. However, the City will use this test, as well as a pro forma –based analysis of whether the proposed private project could reasonably be expected to occur without public assistance, for all assistance proposals. To allow for this evaluation, the developer must provide a complete development budget and operating pro forma, and an accompanying statement explaining the need for assistance.

#### VI. TYPES OF FINANCING

The City will consider “pay as you go” financing arrangement with the developer. With pay as you go financing, the developer pays for various costs initially, and the authority promises to reimburse the developer from tax increment, tax abatement, or other identified economic development and redevelopment tools over time as it is generated. This arrangement may be

structured as a revenue note or bond issued to the developer, with an interest component to compensate the developer for costs of financing the improvements up front.

Bonds secured by tax increments or tax abatements may be issued only when there is an extraordinary capital requirement that cannot be met through conventional private debt and/or equity, and to benefit a project of high priority and interest to the City. The bonds may be general obligation bonds backed by the full faith and credit of the City.

## VII. TERM OF ASSISTANCE

The City retains the ability to provide a shorter term for the tax increment or tax abatement than the Minnesota Tax Increment Act and Minnesota Tax Abatement Act, respectively.

## VIII. BUSINESS ASSISTANCE PROJECT APPROVAL CRITERIA

All new projects approved by the City must meet the following mandatory minimum approval criteria. However, it should not be presumed that the business assistance request of a project meeting these criteria will automatically be approved. Meeting these criteria creates no contractual rights on the part of any potential developer.

1. The assistance shall be provided within applicable statutory restrictions, State Auditor interpretation, debt limit guidelines, and other appropriate requirements and policies.
2. The project should meet one or more of the goals referenced in the City's Economic Development Strategy and Action Plan: 2012 – 2014.
3. The project must be in accord with the City's Comprehensive Plan and Zoning Ordinances, or required changes to the Comprehensive Plan and Zoning Ordinances must be under active consideration by the City at the time of approval.
4. The assistance will not be provided to projects that have the financial feasibility to proceed without the benefit of the assistance. Assistance will not be provided solely to broaden a developer's profit margins on a project. Prior to consideration of a business assistance request, the City may undertake an independent underwriting of the project to help ensure that the request for assistance is valid.
5. Prior to approval of business assistance, the developer shall provide any required market and financial feasibility studies, appraisals, soil boring, information provided to private lenders for the project, and other information or data that the City or its financial consultants may require in order to proceed with an independent underwriting.
6. Any developer requesting business assistance should be able to demonstrate past successful general development capability as well as specific capability in the type and size of development proposed.
7. The developer must retain ownership of the project at least long enough to complete it, to stabilize its occupancy, to establish the project management, and to initiate repayment of the business assistance.

8. The level of business assistance funding should be reduced to the lowest possible level and least amount of time by maximizing the use of private debt and equity financing first, and then using other funding sources or income producing vehicles that can be structured into the project financing, prior to using additional business assistance funding.

## IX. BUSINESS ASSISTANCE PROJECT EVALUTATION CRITERIA

If a business meets the criteria in Section 4 and is eligible for assistance, the following criteria will be used to determine the amount of assistance and type of assistance that may be provided. All projects will be evaluated by the Elko New Market City Council on the following criteria for comparison with other proposed business assistance projects reviewed by the City, and for comparison with other subsidy standards (where appropriate). It is realized that changes in local markets, costs of construction, and interest rates may cause changes in the amounts of business assistance subsidies that a given project may require at any given time. In applying the criteria to a specific project, the following will apply:

The City may consider the requirements of any other business subsidy received, or to be received, from a grantor other than the City.

1. If the business subsidy is a guaranty, the amount of the business subsidy may be valued at the principal amount of the guaranteed payment obligation.
2. If the business subsidy is real or personal property, the amount of the subsidy will be the fair market value of the property as determined by the City.
3. If the business subsidy is received over time, the City may value the subsidy as it determines is fair and reasonable under the circumstances.
4. As used herein, "Benefit Date," means the date the business subsidy is received. If the business subsidy involves the purchase, lease, or donation of physical equipment, then the benefit date occurs when the recipient puts the equipment into service. If the business subsidy is for improvements to property, then the Benefit Date refers to the earliest date of either when the improvements are finished for the entire project or when a business occupies the property.
5. All business assistance projects will need to meet a "Reasonable Rate of Return." Assistance will not be used unless the need for the City's economic participation is sufficient that, without that assistance the project could not proceed in the manner as proposed. The Reasonable Rate of Return will be based on market standards at the time of the application for assistance.
6. Business assistance will not be used when the developer's credentials, in the sole judgment of the City, are inadequate due to past track record relating to: completion of projects, general reputation and/or bankruptcy, or other problems or issues considered relevant by the City.
7. Business assistance funding should not be provided to those projects that fail to meet good public policy criteria as determined by the Council, including: poor project quality; projects that are not in accord with the City's comprehensive plan, zoning, redevelopment plans, and policies; projects that provide no significant improvement to surrounding land

uses, the neighborhood, and/or the City; projects that do not meet one or more of the goals referenced in the City's Economic Development Strategy and Action Plan: 2012 - 2014; projects that do not meet financial feasibility criteria established by the City; and projects that do not provide the highest and best desired use for the property.

8. All projects receiving business assistance under the criteria listed in *Minnesota Statutes* 116J.993, Subd. 3 must meet the job and wage goals described below. *Minnesota Statutes* 116J.994, Subd. 2 allows the City to deviate from its criteria by documenting in writing the reason for the deviation and attaching a copy of the document to its next annual report to the Department of Employment and Economic Development.  
Projects receiving business assistance must create a minimum of 5 full time jobs paying an average wage of 150% of Federal minimum wage, including benefits.
9. The amount of assistance available to a project will be limited by the amount of proceeds that TIF or other financing tools may support.
10. Job creation or retention is not required for businesses subsidies as long as the grantor identifies an alternate public purpose in addition to tax base increase. If after Council consideration of the alternate public purpose(s) proposed, the creation or retention of jobs is determined not to be a goal, the wage and job goals may be set at zero.
11. In lieu of job creation or retention, other measurable, specific, and tangible goals shall be established. Examples of tangible goals may include tax base diversification, property redevelopment, and/or other goals identified in the City's Economic Development Strategy and Action Plan: 2012 - 2014.
12. Business assistance will normally be used for projects that address the following land use issues: (1) high value development consistent with the City's Comprehensive Plan; (2) location on property which needs but is not likely to be developed or redeveloped because of blight or other adverse conditions of the property; and possibly (3) the inclusion of design and/or amenity features not otherwise required by law.
13. Business assistance will be evaluated on the project's impact on existing and future public investment: (1) whether and to what extent the project will utilize existent public infrastructure capacity and the extent it requires additional publicly funded infrastructure investments; (2) arrangements for the City to receive a direct monetary return on its investment in the project.
14. Business assistance will normally be used for projects that demonstrate to the satisfaction of the City adequate financing for the project is available and that the project will be completed in a timely fashion.
15. Business assistance from the City must satisfy all requirements of *Minnesota Statutes* 116J.993 through 116J.995.

#### X. LOOK BACK PROVISION

The City reserves the ability to include a Look Back Provision in the Development Agreement for a project. Under the Look Back Provision, the City has the ability to review the development proforma and grant assistance based on the estimates for the project. After completion of the

project, the City has the ability to compare the actual project costs and performance with the estimates and adjust the assistance provided so a "Reasonable Rate of Return" is achieved. This adjustment will be made only in circumstances when the business subsidy can be reduced to achieve a "Reasonable Rate of Return." The adjustment will not be made to increase the amount of the business subsidy.

At the time the Development Agreement is being negotiated, the City will consider if and how any assistance above the "Reasonable Rate of Return" may be shared.

Some criteria, by their very nature, must remain subjective. However, wherever possible "benchmark" criteria have been established for review purposes. The fact that a given proposal meets one or more "benchmark" criteria does not mean that it is entitled to funding under this policy, but rather that the City is in a position to proceed with evaluations of (and comparisons between) various business assistance proposals, using uniform standards whenever possible.

## XI. ESCROW DEPOSIT AND CITY REVIEW PROCESS

The City requires a deposit to be placed in escrow at the time an Application for Business Assistance Financing is received. The deposit amount is identified in the Application. These funds will be used to pay expenses incurred for the City's preliminary review and evaluation of the request. Following this review, the City will provide the developer with feedback on the proposed project and assistance request, and a recommendation on whether proceeding to official City consideration of the proposed assistance mechanism (i.e. TIF, tax abatement) is appropriate.

For projects that proceed to City establishment of assistance mechanisms and negotiate of assistance terms, the developer will be required to deposit additional funds to cover City costs associated with additional review and the establishment of the business assistance. The applicant will be responsible for paying all reasonable and documented expenses which the City incurs. The City reserves the option to stop the review process if the escrow is drawn down and not replenished within one week of the City's notification of the developer.

---

Mayor

## APPENDIX A

The Business Subsidies Statutes specifically exclude 22 items from the definition. The following are NOT business subsidies:

- A business subsidy of less than \$150,000;
- Assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;
- Public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
- Redevelopment property polluted by contaminants as defined in *M.S. Section 116J.552, Subd. 3*;
- Assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50% of the total cost;
- Assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services;
- Assistance for housing;
- Assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance sub-district as defined under *M.S. Section 469.174, Subd. 23*;
- Assistance for energy conservation;
- Tax reductions resulting from conformity with federal tax law;
- Workers' compensation and unemployment compensation;
- Benefits derived from regulation;
- Indirect benefits derived from assistance to educational institutions;
- Funds from bonds allocated under chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501 (c) (3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;
- Assistance for a collaboration between a Minnesota higher education institution and a business;
- Assistance for a tax increment financing soils condition district as defined under *M.S. Section 469.174, Subd. 19*;
- Redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;
- General changes in tax increment financing law and other general tax law changes of a principally technical nature;
- Federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency;
- Funds from dock and wharf bonds issued by a seaway port authority;
- Business loans and loan guarantees of \$150,000 or less; and
- Federal loan funds provided through the United States Department of Commerce, Economic Development Administration.

APPENDIX B

CITY OF ELKO NEW MARKET  
BUSINESS ASSISTANCE FINANCING APPLICATION

Legal name of applicant:

\_\_\_\_\_

Address:

\_\_\_\_\_

Telephone number:

\_\_\_\_\_

Name of contact person:

\_\_\_\_\_

REQUESTED INFORMATION

Addendum shall be attached hereto addressing in detail the following:

1. A map showing the exact boundaries of proposed development.
2. Give a general description of the project including size and location of building(s); business type or use; traffic information including parking, projected vehicle counts and traffic flow; timing of the project; estimated market value following completion.
3. The existing Comprehensive Guide Plan Land Use designation and zoning of the property. Include a statement as to how the proposed development will conform to the land use designation and how the property will be zoned.
4. A statement identifying how the assistance will be used and why it is necessary to undertake the project.
5. A statement identifying the public benefits of the proposal including estimated increase in property valuation, new jobs to be created, hourly wages and other community assets.
6. A written description of the developer's business, principals, history and past projects

I understand that the application fee will be used for City staff and consultant costs and may be partially refundable if the request for assistance is withdrawn. Refunds will be made at the discretion of the City Council and be based on the costs incurred by the City prior to the withdrawal of the request for assistance. If the initial application fee is insufficient, I will be responsible for additional deposits.

SIGNATURE

Applicant's signature:

\_\_\_\_\_

Date:

\_\_\_\_\_

CITY OF ELKO NEW MARKET

Application for Business Assistance Financing

GENERAL INFORMATION:

Business Name: \_\_\_\_\_ Date: \_\_\_\_\_

Address: \_\_\_\_\_

Type (Partnership, etc.): \_\_\_\_\_

Authorized Representative: \_\_\_\_\_ Phone: \_\_\_\_\_

Description of Business: \_\_\_\_\_

Legal Counsel: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

FINANCIAL BACKGROUND:

1. Have you ever filed for bankruptcy? \_\_\_\_\_

2. Have you ever defaulted on any loan commitment? \_\_\_\_\_

3. Have you applied for conventional financing for the project? \_\_\_\_\_

4. List financial references:

a. \_\_\_\_\_

b. \_\_\_\_\_

c. \_\_\_\_\_

5. Have you ever used Business Assistance Financing before? \_\_\_\_\_  
If yes, what, where and when? \_\_\_\_\_

PROJECT INFORMATION:

1. Location of Proposed Project: \_\_\_\_\_  
\_\_\_\_\_
2. Amount of Business Assistance requested? \_\_\_\_\_
3. Need for Business Assistance: \_\_\_\_\_
4. Present ownership of site: \_\_\_\_\_
5. Number of permanent jobs created as a result of project? \_\_\_\_\_
6. Estimated annual sales: Present: \_\_\_\_\_ Future: \_\_\_\_\_
7. Market value of project following completion: \_\_\_\_\_
8. Anticipated start date: \_\_\_\_\_ Completion Date: \_\_\_\_\_

FINANCIAL INFORMATION:

1. Estimated project related costs:
    - a. land acquisition \$ \_\_\_\_\_
    - b. site development \_\_\_\_\_
    - c. building cost \_\_\_\_\_
    - d. equipment \_\_\_\_\_
    - e. architectural/engineering fee \_\_\_\_\_
    - f. legal fees \_\_\_\_\_
    - g. off-site development costs \_\_\_\_\_
- Total: \_\_\_\_\_

2. Source of financing:
- a. private financing institution      \$ \_\_\_\_\_
  - b. requested public assistance funds \_\_\_\_\_
  - c. other public funds \_\_\_\_\_
  - d. developer equity \_\_\_\_\_
- Total: \_\_\_\_\_

**PLEASE INCLUDE:**

- 1. Preliminary financial commitment from bank
- 2. Plans and drawing of project
- 3. Background material of company
- 4. Development budget (sources and uses of funds)
- 5. Operating pro forma analysis (minimum of 10 years)
- 6. Personal and/or corporate financial statements, as applicable
- 7. Statement of property ownership or control
- 8. Escrow payment of \$2,500 for business assistance requests of \$150,000 or less; or a payment of \$5,000 for requests over \$150,000
- 9. Escrow Agreement



# City of East Bethel City Council Work Meeting Agenda Information

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**Date:**

October 28, 2015

\*\*\*\*\*

**Agenda Item Number:**

Item 5.0

\*\*\*\*\*

**Agenda Item:**

Donation Policy

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**Requested Action:**

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**Background Information:**

At the September 21, 2015 EDA Meeting, the East Bethel Royalty presented a request for a donation to renovate the Royalty float that was used in 20 parades in 2015. The donation would fund the replacement of the deck and frame, the update of the décor and the installation of a new sound system on the float. After discussion of the matter, Mayor Voss suggested that the group submit a letter describing their proposal to City Staff for further review.

The Royalty submitted the letter and presented their request to the City Council on October 7, 2015. After discussion of the request, Council voted to direct the EDA to consider the request for a donation to the East Bethel Royalty and provide a recommendation to City Council.

There is an issue with this request. Without express authority by charter or statutory provision, Cities have no authority to appropriate or give public funds as donations to any person, corporation or private institution. The City Attorney has opined that Cities are deemed by law not to have the authority to make donations of taxpayer funds. The exception is that the City may make “Grants” to community based events and organizations that it determines generate a broad based community benefit under the criteria outlined in the attached LMC memo (Attachment 1). The memo outlines the tests for validating public expenditures and specifically addresses donations to organizations under II (i).

While donations are not considered a lawful public expenditure, there could be differing ways to approach these types of requests. From a City perspective, though, that is not the primary issue. There is more concern with the precedence and perception this would establish. Approval of these requests could be interpreted by other civic and non-profit groups that the City may be a funding source for their needs and projects.

The request was resubmitted to the EDA and after discussion the matter was tabled. The EDA recommended that prior to seeking a donation from the City, the East Bethel Royalty should consider the following as a means to achieve their financial goals without City assistance:

- Focus efforts for donations on private business, civic and non-profit groups and other sources of support before approaching the City.
- Conduct Community Service Activities that are fund generators
- Develop a Sponsorship Program

- Consider registering with the Department of Alcohol and Gambling Enforcement (AGE) to become eligible to receive charitable gambling proceeds.
- Determine if a 501 C3 designation, as opposed to the current legal status of the organization, is needed for donations to be IRS recognized as tax deductible.

As a result of this request and others received, Council may desire to consider a Donations Policy that would outline requirements for consideration for funding by Council. Items to consider could include but not be limited to the following:

- Reasonable in the amount of the donation sought.
- Documented efforts to secure other donations
- Justify the broad based community benefits that would be provided by the donation
- Term of the request
- Other standards as needed.

**Attachments:**

1. LMC Public Purpose Expenditures Memo

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**Fiscal Impact:**

To be determined

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## INFORMATION MEMO

# Public Purpose Expenditures

*Find general criteria that must be met in order for a public expenditure to be valid such as having a public purpose and direct or implied authority in law. Specific common expenditures are analyzed for the city's ability to make payment. Examples include donations to organizations, economic development activity, certain employee expenses and more.*

### RELEVANT LINKS:

Minn. Const. art. X, § 1.  
Minn. Const. art. XI, § 2.

Minn. Const. art. XII, § 1.

*Visina v. Freeman*, 252 Minn.  
177, 89 N.W.2d 635 (1958).

*City of Pipestone v. Madsen*,  
287 Minn. 357, 178 N.W.2d  
594 (1970).

## I. Criteria for valid public expenditures

In order for an expenditure of public funds to be lawful, it should meet both of the following standards:

- Public purpose. There must be a public purpose for the expenditure.
- Authority. There must be specific or implied authority for the expenditure in statute or in the city's charter. Specific authority is usually fairly clear. In contrast, whether authority is implied by a particular statute or charter provision is subject to interpretation. Cities should consult with their city attorneys as to whether authority for a specific expenditure is implied.

The Minnesota Constitution requires that taxation must be for a public purpose. It also generally prohibits giving or loaning the credit of the state to aid any individual, association or corporation.

Although a state law may be passed to give a city authority to spend money on various purposes, the Minnesota Constitution prohibits the Legislature from passing any local or special law that authorizes public taxation for a private purpose. Thus, a public expenditure must always be for a public purpose.

This leads to the question of what is meant by "public purpose." The meaning of "public purpose" is constantly evolving. The Minnesota Supreme Court has followed a liberal approach, and has generally concluded that "public purpose" means an activity that meets all of the following standards:

- The activity will benefit the community as a body.
- The activity is directly related to functions of government.
- The activity does not have as its primary objective the benefit of a private interest.

The Minnesota Supreme Court has also held that the general objective of a public purpose is to promote the following for all of a city's residents:

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

*Minnesota Energy & Economic Dev. Auth. v. Priny*, 351 N.W.2d 319 (Minn. 1984).

Appendix A, Public Purpose Expenditure Chart.

- Public health.
- Safety.
- General welfare.
- Security.
- Prosperity.
- Contentment.

By no coincidence, these interests are the foundation of all legitimate council actions. Council members are elected or appointed to govern by and for these interests and to be the specialists on what best serves the local population. Therefore, a council's written determination of a valid public purpose based on reasonable findings of fact and the advice of the city attorney cannot and should not be underestimated. It is, after all, a city council's fundamental job to determine valid public purposes and to act in their service.

Attorney general opinions can be useful for guidance in determining whether a public expenditure is valid. However, the opinions are not legally binding and the courts make the final decision. The proper focus of inquiry for a court is whether the expenditure will benefit the community as a whole and if it is related to the functions of government.

If an invalid public expenditure is made, the city could find itself dealing with the following problems:

- Taxpayer lawsuits. The council could have the expense of defending itself in a taxpayer lawsuit. If the taxpayer is successful, the expenditure might be found to be illegal. Personal liability for the expenditure might also fall upon the individual council members in some situations since they have a fiduciary responsibility to spend the public's money for a public purpose.
- Non-compliance finding by the state auditor. The state auditor could find that the city has made an unauthorized expenditure of public funds. This could result in future special audits and embarrassment for the city.
- Public mistrust. The council could lose the trust of the people in the community.
- Law changes. If the violation is substantial, the event could prompt the adoption of more restrictive legislation on city expenditures.

A later section of this memo contains a checklist cities can use to make a preliminary determination of whether specific expenditures will be a proper use of public funds.

RELEVANT LINKS:

Minn. Stat. § 410.01.

Minn. Stat. § 410.33.

A.G. Op. 59-a-3 (Jan. 15, 1959).  
Minn. Stat. § 471.93.

## II. Common questions on public spending

This section outlines the areas where public officials have often had questions regarding public expenditures. Please note this section is not meant to be an exhaustive list of all valid or invalid city expenditures.

In many statutes, the ability to spend money in a particular way may be limited to certain types of cities. An example of this would be a statute that gives particular spending authority only to statutory cities or only to home rule charter cities.

Many statutes give authority for certain expenditures only to cities of a certain class. A city's class is determined by its population. Cities are classified as follows:

- First class cities. A first class city has a population over 100,000. (Cities do not generally lose first class status if their population drops below 100,000, unless the population drops more than a certain amount).
- Second class cities. A second class city has a population over 20,000, but not more than 100,000.
- Third class cities. A third class city has a population over 10,000, but not more than 20,000.
- Fourth class cities. A fourth class city has a population that is 10,000 or less.

This section is primarily designed for statutory cities since home rule charter cities may have additional authority for expenditures in their city charters. These cities should check their charters for more details. Home rule charter cities may use a general law that applies to statutory cities as authority for an expenditure, as long as all of the following conditions are met:

- The city's charter is silent on the particular matter.
- There is no general law that prohibits a city charter from making the expenditure.
- There is no general law that expressly provides that a city's charter prevails over general law on the particular matter.

A last consideration in determining the validity of expenditures is that the attorney general has made a distinction between authority to spend money for a specific purpose and authority to give money to an organization generally committed to that purpose. For example, the attorney general said the authority to appropriate money for purposes of historical preservation permits a city to contract with a county historical society for specific services, but not to donate funds to the society to spend in its own discretion.

**RELEVANT LINKS:**

Minn. Stat. §§ 469.187-.189.

A.G. Op. (Jan. 30, 1930).

Minn. Stat. § 469.188.  
Minn. Stat. § 410.01.

Minn. Stat. § 469.189.  
Minn. Stat. § 410.01.

Minn. Stat. § 469.186.  
Section II-GG, *Tourism*.

## **A. Advertising**

City officials often ask if they may spend money on advertising. Generally, there is authority for making advertising expenditures. However, sometimes the authority may be limited to a particular kind of advertising.

Although cities have authority to spend money on various types of advertising, council members should carefully review these expenditures beforehand to ensure the facts support that it is an advertising expenditure. The attorney general has said that a donation under the guise of advertising is not proper.

A city seeking to make advertising expenditures that are not outlined in this memo should contact the League for further information or consult its city attorney for a legal opinion.

### **1. Second and third class cities**

Any second or third class city (whether a statutory or home rule charter city) may levy a tax for the purpose of advertising the following:

- Agricultural resources of the community.
- Industrial business of the community.
- All other resources of the community.

### **2. Second, third, and fourth class cities**

The governing body of any second, third, or fourth class statutory or home rule charter city may annually appropriate money to advertise the city and its resources and advantages. The money may only be used:

- To advertise the city.
- For cooperative programs of promotion for the area by more than one municipality and its resources and advantages.

### **3. Statutory cities**

Any statutory city may spend money to create a bureau of information and publicity for the purpose of furnishing tourists information and for outdoor advertising. In addition, these bureaus can serve the purpose of preparing, publishing, and circulating information and facts concerning the recreational facilities and business and industrial resources of the community.

**RELEVANT LINKS:**

Minn. Stat. § 360.032.  
Minn. Stat. § 360.043.  
Minn. Stat. §§ 360.011-076.

Minn. Stat. § 441.26.  
Minn. Stat. § 410.01.

Minn. Stat. § 441.48.  
Minn. Stat. §§ 441.47-55.

Minn. Stat. ch. 469.  
Section II-K, *Economic development*.  
Minnesota Department of  
Employment and Economic  
Development, 332 Minnesota  
Street, Suite E-200, St. Paul,  
MN 55101; (651) 259-7114  
or (800) 657-3858.

Minn. Stat. § 412.221, subd.  
9.

Minn. Stat. § 471.84.  
Minn. Stat. § 410.01.

## **B. Airports**

All cities, towns, and counties in Minnesota have the power to acquire, maintain, and operate airports. In addition, cities, towns, and counties may assist other municipalities with powers that those municipalities have under the aeronautics code.

## **C. Bridges**

All statutory cities may spend money to assist in the improvement and maintenance of roads and bridges outside the city limits, as long as they lead into the city. Fourth class home rule charter cities also have this authority.

All cities have the power to acquire, purchase, construct, maintain, and operate bridges and the bridges' approaches. In order to use this authority, however, a city must pass an ordinance determining to exercise powers granted by certain state statutes.

## **D. Businesses**

A number of statutes empower cities to provide money or real property for economic development purposes under various programs. Likewise, there is limited authority to provide low-cost land for housing redevelopment purposes. These different programs are briefly discussed in a later section of this memo. For further information, contact the League or the Minnesota Department of Employment and Economic Development (DEED).

## **E. Cemeteries**

Statutory cities may acquire, hold, and manage cemetery grounds. Cemeteries may be acquired by purchase, gift, devise, condemnation, or otherwise.

Any statutory city, town, or fourth class home rule charter city may appropriate up to \$10,000 per year to any public or privately owned cemetery located within or outside the city's boundaries. The cemetery must be used for burial of the dead without restriction. The statute does not specify a particular use of the money by the cemetery.

## **F. Community celebrations**

City officials often ask if the city may hold a celebration for the community or contribute to an organization that will be holding a community celebration. Although there is no general authorization for festival expenditures, there is some statutory authority to support these expenditures in limited circumstances.

**RELEVANT LINKS:**

Minn. Stat. § 38.12.

**1. County fairs**

Any city or town may appropriate money to a county and district agricultural society or association if the following conditions are met:

- The society or association must be a member of the Minnesota State Agricultural Society.
- The city or town must have a county fair held within its corporate limits or in close proximity.

Minn. Stat. § 465.50.

**2. Memorial Day observances**

All cities have the authority to spend money for Memorial Day observances in commemoration of the noble and valiant deeds of the nation's dead soldiers. Cities may spend up to \$300 annually for each 75,000 of population.

Minn. Stat. § 471.93.  
Section II-Q, *Historical*.

**3. Centennial and historical celebrations**

The statutes do not specifically authorize cities to spend money for city centennial celebrations. An argument can be made, however, that cities may spend money on such local celebrations under a statute allowing cities to spend money to commemorate important historical events that occurred in the city. A later section of this memo discusses this authority in more detail.

Minn. Stat. § 471.935.  
Minn. Stat. §§ 471.15-.191.

**G. Community centers**

Any city may appropriate money to support the facilities, programs, and services of a public or private nonprofit senior citizen or youth center. There is no specific authority for cities to finance other community centers, but many cities have done so through the state recreation statutes.

Minn. Stat. § 412.221, subd. 34.

**H. Decorations**

Statutory cities may spend money on decorations, signs, plaques, and attached accessories for public streets, buildings, and parks. Cities should be careful that decorations, such as those for the Christmas holidays, are not primarily religious in nature.

A.G. Op. 59-a-22 (Dec. 4, 1934).

**I. Donations to organizations**

Cities are often asked to make donations to organizations operating for good causes. Without express authority by charter or statutory provision, cities have no authority to appropriate or give away public funds as donations to any person, corporation or private institution. While there's no statutory authority to donate in general, there are some alternatives to consider. And there is statutory authority to donate for some specific causes or situations.

## RELEVANT LINKS:

A.G. Op. 59-a-3 (May 21, 1948).  
A.G. Op. 218-r (Aug. 15, 1951).  
A.G. Op. 59-a-22 (Aug. 7, 1951).  
A.G. Op. 476-b-2 (Apr. 20, 1944).  
A.G. Op. 218-r (Feb. 10, 1942).  
A.G. Op. 476-b-2 (Apr. 29, 1954).

Minn. Stat. § 412.221, subd. 2.  
Minn. Stat. § 349.213.

Minn. Stat. § 471.941.

Minn. Stat. § 469.191.  
A.G. Op. (June 27, 1997)  
(informal letter opinion to Staples).  
Section II-J, *Dues*.

### 1. Nonprofit organizations in general

The attorney general has considered the question of donating public funds to various groups and found the following public expenditures to be improper due to a lack of specific authority to donate:

- To support the Boy Scouts.
- To sponsor a local bowling team.
- To sponsor a local kittenball team (similar to softball).
- To help the American Legion build a Legion Hall.
- To help support the Red Cross.
- To support a campaign to stop expansion of a neighboring city airport.

There are, however, other options. One idea is for the city to use the contracting power to give effect to another power of council, such as contracting for a club to spend a Saturday cleaning up public grounds in exchange for money. Also, if a city maintains a fund created from gambling proceeds, those proceeds may be used for many types of charitable contributions.

### 2. Artistic organizations

Counties, cities, and townships may appropriate money to support artistic organizations. The appropriation may be divided among multiple artistic organizations in proportions determined by the governing body.

An “artistic organization” is an association, corporation, or other group that provides an opportunity for people to participate in the creation, performance, or appreciation of artistic activities. The statute provides examples of “artistic activities” cities can support with this appropriation, but it is by no means an exclusive list.

### 3. Chamber of commerce

State law authorizes cities “to appropriate not more than \$50,000 annually to any incorporated development society or organization of the state for promoting, advertising, improving, or developing the economic and agricultural resources of the city.” The attorney general’s office has opined that while this authority allows a city to contribute up to \$50,000 annually to a chamber of commerce, it does not allow a city to become a member of the chamber of commerce, or to pay dues to it.

**RELEVANT LINKS:**

Minn. Stat. § 465.039.  
Minn. Stat. § 465.037.  
Minn. Stat. § 469.191.  
Sections II-R, *Hospitals and EMS* and II-K, *Economic development*.

Minn. Stat. § 343.11.

Minn. Stat. § 465.90.

A.G. Op. (June 27, 1997)  
(informal letter opinion to Staples).

Minn. Stat. § 471.96.

Minn. Stat. § 465.58.

#### **4. Community food shelves**

Any city or county may appropriate an amount to provide grants to nonprofit organizations that operate community food shelves and provide food to the needy without charge. There is also authority to provide public money to support hospitals and certain economic development organizations. These circumstances are discussed in more detail in a later part of this memo.

#### **5. Prevention of cruelty to animals**

If a city contains a society for the prevention of cruelty to animals (SPCA), it may appropriate for the maintenance and support of that SPCA “in the transaction of the work for which they are organized” any sum of money not otherwise appropriated. However, no part of such an appropriation may be expended for the payment of the salary of any officer of the society.

#### **6. Solicitation of donations by firefighters**

In spite of any law or ordinance to the contrary, any city may by resolution allow full-time firefighters employed by the city while on duty, or volunteer firefighters serving the city while not on duty, to solicit charitable contributions from motorists. A city that wishes to do this must follow certain strict requirements provided in statute.

#### **J. Dues**

According to the attorney general, cities cannot join or become members of “private” organizations, absent specific statutory authority—even if there is specific authority to contribute to the organization. And without authorization for membership, there is no authority to pay for membership. However, as noted previously, instead of paying dues, a council may contract and pay for services generally provided by an organization if doing so achieves one of council’s powers.

All cities, counties, and towns may appropriate money for membership in county, regional, state, and national associations of a civic, educational, or governmental nature. The associations must have as their purpose the betterment and improvement of municipal governmental operations. This authorization also allows these public entities to participate in the meetings and activities of these associations.

All cities and urban towns in Minnesota may appropriate money to pay dues to become members of the League of Minnesota Cities.

## RELEVANT LINKS:

Minn. Stat. ch. 469.

Minn. Stat. § 469.185.

Minn. Stat. §§ 116J.993-.995.

Minn. Stat. § 469.191.  
Minn. Stat. §§ 469.124-.134.

Minn. Stat. §§ 469.090-.1082.  
Minn. Stat. § 469.192.  
Minn. Stat. §§ 469.1812-.1816.

Minnesota Department of  
Employment and Economic  
Development, 332 Minnesota  
Street, Suite E-200, St. Paul,  
MN 55101; (651) 259-7114  
or (800) 657-3858.

A.G. Op. 472-o (July 31,  
1959). A.G. Op. 185-b-2  
(June 28, 1962). A.G. Op.  
185-b-2 (Apr. 6, 1962).  
LMC information memo, *City  
Special Elections*.

## K. Economic development

A number of statutes empower cities to provide money or real property for economic development purposes under various programs. Although the specific requirements of these statutes are not within the scope of this memo, the following is a summary of some of the more common tools available:

- Conveyance of city-owned land for a nominal amount to encourage business and industry, under certain conditions.
- “Business subsidies,” including contributions of personal property, real property and/or infrastructure.
- Grants to certain economic development organizations.
- Creation of development districts.
- Economic Development Authority programs.
- Economic development loans.
- Tax abatement.

For further information about economic development programs, contact the League or the Minnesota Department of Employment and Economic Development (DEED).

## L. Elections

Cities can spend money to hold general and special elections they are authorized by law to conduct.

### 1. Special elections/advisory elections

Special elections that are authorized by statutes or charter provisions are considered a valid public expenditure. But elections on questions the public is not authorized by statute or charter provision to answer are considered advisory elections and are prohibited. Therefore, no public money may be spent on them.

Many home rule charter cities have charters containing initiative and referendum provisions. These provisions give these cities additional powers with regard to the types of questions that can be put on the ballot at a special election. Voters in these cities often have the right to petition for special elections in certain circumstances.

### 2. Advocating/educating on a ballot question

A common question is whether a city can spend money for advertisements encouraging voters to support the city’s position on a local ballot question, such as a “yes” vote for a special election to issue bonds or a “no” vote on a city charter issue.



# City of East Bethel City Council Work Meeting Agenda Information

\*\*\*\*\*

**Date:**

October 28, 2015

\*\*\*\*\*

**Agenda Item Number:**

Item 6.0

\*\*\*\*\*

**Agenda Item:**

Video Indexing of City Council Meeting DVD's

\*\*\*\*\*

**Requested Action:**

\*\*\*\*\*

**Background Information:**

If time permits, I will submit a presentation on Video Indexing of Council Meetings. This would enable us to display the agenda on the same screen with video of the Council Meeting. This would also enable the user to click on an agenda item and have that segment available for immediate viewing.

Inclusion of this feature would make the DVD replay's easier to use as a source to research and access Council actions.

**Attachments:**

\*\*\*\*\*

**Fiscal Impact:**

To be determined

\*\*\*\*\*

**Recommendation(s):**

\*\*\*\*\*