

## EAST BETHEL CITY COUNCIL MEETING

August 1, 2012

The East Bethel City Council met on August 1, 2012 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Heidi Moegerle  
Steve Voss

MEMBERS ABSENT: Bill Boyer

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

Call to Order **The August 1, 2012 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the August 1, 2012 City Council Agenda. Lawrence seconded.** Davis, "Can we add an invoice to the consent agenda for the medical evaluation of Mr. Sackey?" Voss asked the City Administrator to describe the item. Davis, "Tis is a medical invoice to IPC for \$625 for an evaluation for one of our employees. Voss asked and you want to add this to the consent agenda? Davis, "Yes, to Item G on the consent agenda." **Voss amended his motion to add Consent Agenda -Item G – Approval of Invoice for IPC. Moegerle seconded the amendment, all in favor, motion carries.**

Resolutions Recognizing 2012-2013 East Bethel Royalty Davis explained that the East Bethel Scholarship Pageant organizes and sponsors the annual Scholarship Pageant where individuals compete to represent the City of East Bethel as an Ambassador for a twelve month period.

Staff recommends adoption of Resolution 2012-40 A Resolution Recognizing East Bethel Royalty for 2012-2013 **Miss East Bethel** Veronica Cich, Resolution 2012-41 A Resolution Recognizing East Bethel Royalty for 2012-2013 **Junior Miss East Bethel Terra Mann and** Resolution 2012-42 A Resolution Recognizing East Bethel Royalty for 2012-2013 **Little Miss Amanda Smith. These** resolutions recognize the East Bethel Royalty for 2012-2013.

**Voss made a motion to adopt Resolution 2012-40 Recognizing East Bethel Royalty for 2012-2013 Miss East Bethel Veronica Cich. Moegerle seconded; all in favor, motion carries.**

**Voss made a motion to adopt Resolution 2012-41 Recognizing East Bethel Royalty for 2012-2013 Miss Junior East Bethel Terra Mann. Moegerle seconded; all in favor, motion carries.**

**Voss made a motion to adopt Resolution 2012-42 Recognizing East Bethel Royalty for 2012-2013 Little Miss Bethel Amanda Smith. Moegerle seconded; all in favor, motion carries.**

Veronica Cich, "Thank you for recognizing us today and letting us represent our community throughout the state. And I want to thank the Mayor for coming to the pageant and opening the ceremony."

Terra Mann, “Thank you for letting us come here and for letting us represent the City of East Bethel for the next year.”

Public Forum Lawrence opened the Public Forum for any comments or concerns that were not listed on the agenda. There were no comments so the Public Forum was closed.

Consent Agenda **Moegerle made a motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, July 18, 2012, Regular Meeting; C) Pay Estimate #5, Municipal Builders for Water Treatment Plant No. 1; D) Resolution 2012-43 Ordering Bids for Jackson Street and Sandy Drive Seal Coat; E) Replacement of Rhino Wide Area Mower; F) Resolution 2012-44 Proclaiming August 7, 2012 Night to Unite; G) Approval of IPC Invoice in the amount of \$625. DeRoche seconded; all in favor, motion carries.**

Lawrence, “During the fire fighters dance on July 21, 2012 some unknown parties were distributing flyers on windshields of vehicles warning us about GRE. I want people to understand that these facts were clearly misrepresented. They don’t understand what the real meaning was of what they did. They talked about people in the City, and unfortunately, they got so many things wrong on this flyer. It is appalling that people would put something out with so many errors. Nothing on this flyer is even accurate or true.

When you see something like this come out, it is just mean-spirited. There is nothing about this that is good. If they need the information, right or wrong I will help them find it. That is the way I do it. I just wanted to express my displeasure about the way this was done. It is poor, mean-spirited.” DeRoche, “We are trying to build a positive image for the City. I will touch on this more in my Council report.” Lawrence, “That letter was so false, such a poor misrepresentation. It is incredible that people don’t get the right information before putting things out. That is what is right, so people get a good understanding.”

DNR – Beaverbrook WMA Davis explained that the DNR is interested in purchasing the William Gombold property on Klondike Drive. This acquisition is intended to become part of the proposed Beaverbrook State Wildlife Management Area.

In the late 1970’s, DNR was approached by the Beaverbrook Sportsman’s Club to sell or convey property to DNR to generate revenues for debt retirement purposes. That event initiated the concept of a Beaverbrook WMA Project Proposal to document an approach and potentially assemble any future land ownership in which DNR might have interest, including existing DNR Trust Lands, County lands, or other properties, some of which are now the Sandhill Crane Natural Area. However, no lands were ever purchased for this project.

Because Mr. Gombold’s land is adjacent to the existing Beaverbrook WMA project designated area, it simplified the process for the DNR to create this as an addition to the project. The DNR has emphasized that the Beaverbrook WMA is a concept and adding tracts 9 – 14 to the original proposal (Supplemental Acquisition Map attachment identifies these properties) would be dependent on future funding and willingness of the adjoining property owners to sell. The owners of tracts 13 and 14, as shown on the attached location map, have expressed interest in selling their land to DNR if the DNR is successful in acquiring the Gombold property.

The DNR has an “in lieu of tax” payment to the County, of which an amount is distributed to the cities by the County. The formula for calculating these amounts is somewhat complex and is listed in the attachment that references the state statute on this matter. Total taxes payable

on this property in 2012 are \$2,502 with the share received by the City being approximately \$825. At this time it is undetermined the net difference between what the City currently receives in taxes as opposed to a payment in lieu of taxes.

The City would expect the dedication of right of way and drainage easements as indicated on the attached Right of Way and Easement Map from the DNR as a condition of support for this purchase.

Sarah Strommen of the Minnesota Land Trust will be available to answer any questions regarding the dedication requirements for right of way. Also, attached is correspondence from the property owner, William Gombold, in regards to the dedication of the requested right of way and trail easement.

Staff has no objections to the purchase of this property by the DNR and recommends the approval of the resolution 2012-38 provided the DNR grants the easements and rights of way along Klondike Drive as outlined by the City Engineer on Attachment 6.

Sarah Strommen, Associate Director with Minnesota Land Trust introduced herself and she indicated that Chris Lord with Anoka Conservation District (ACD) is also in attendance. Strommen, "The Minnesota Land Trust along with the ACD are co-holders of the conservation easement. The Minnesota Land Trust is supportive of the DNR as an owner of this property. For those of you that are not familiar with the conservation easement, it is a tool to protect certain conservation values of the property. In this case it is primarily the habitat value of Gombold's property. A conservation easement is a legally binding way to restrict the use and development of a property. It is a permanent document and runs with the land. It binds not only the current owner, but also any future owners.

In terms of uses and developments that are allowed on these properties there are three categories, those that are allowed with certain limitations on the property. There are certain uses and development that may be allowed with approval of the conservation easement and then there are certain uses and development that are not allowed. The hands of all of us are tied.

In terms of this conservation easement, there is a long history to it. Mr. Gombold went through a platting process with the City and they had required a conservation easement and were looking at a conservation development to protect the natural values of the property consistent with the surrounding Sand Hill Crane Natural Area and to preserve some of those native prairie communities. We entered into the process along with the ACD to be an expert and to help the City through the platting process. And through that it was decided that the Minnesota Land Trust and ACD were good holders of the conservation easement. Ultimately, the plat was not finalized. The property owner and the City were never able to come to an agreement on some of the final terms and so after all that time spent on the conservation easement, Mr. Gombold decided to move forward with it on his own. The Minnesota Land Trust and ACD in partnership purchased a conservation easement from Mr. Gombold that covered the entire property because there were no more platted lots. Originally, the property would have just covered the property to the north.

So, our conservation easement covering the entire property, and there being no plat, did not contemplate rights-of-way, storm water facilities and those sorts of things that may have otherwise been part of a plat. In this conversation about rights-of-ways and storm water ponding, we are certainly happy to work with the City on those issues, but with the

understanding that they are maybe not allowed within the conservation easement. On top of that, now what we have is a split interest in the Gombold property. Mr. Gombold still holds rights as subject of the fee title, subject to the restrictions of the conservation easement. As holders of the conservation easement, along with ACD, we cannot simply grant our interest in a right-of-way or give a right-of-way without compensation for that.

We do this with communities all the time, but typically it is done through a condemnation process or threat of a condemnation process. This is one of the narrow ways we can terminate the conservation easement over a portion. To complicate that issue further, the funds that we used to purchase the easement from Mr. Gombold came from the State of Minnesota. Their Natural Resource Trust Fund. And we might need to repay some of these funds. We have done this in the past, it is not unheard of. The point I want to make is this process is defined that we would have to go through and it applies no matter who the owner is. This process is required today with Mr. Gombold as the owner; it will be the same next year if the DNR is the owner and ten years from now, whenever those improvements need to be made. Those restrictions are there, regardless of who the owner is there. We are happy to work with you and the process that we have.”

Voss asked you talk about the conservation easement and giving up the easement and the value of part of that, if there is an arrangement of that as part of the sale the DNR somehow deeds that portion the City needs in the future, but the conservation easement stays on there. Would it be now that the City becomes an owner? Strommen, “Our conservation easement prohibits any division of the property, so we cannot split off any property and deed it to the City under the terms of our easement. Really the way to get past that is that the City would need to say we are going to condemn this area for road right-of-way. We need that for public purpose and terminate the road right-of-way off that. And then our legal description would change. We have done this where if the fee title owner wants to grants their rights without compensation. That, frankly is their business. We just cannot do that especially in this case where we purchased the easement with state funds and we are prohibited from doing it.”

DeRoche, “So that would be Mr. Gombold? I don’t think we are looking to do this big development on Klondike. But, the road is a travesty and at some point it is going to have to be fixed. And, I don’t see the problem with this. It is obvious we can’t change it. The property right next to the road is not virgin road anymore, it is pretty disrupted. I am not sure what we need for right-of-way.” Davis, “Sixty-six feet minimum.”

DeRoche, “We should take care of this now, instead of leaving this a mess. Then if something happens, we have the right-of-way. Is Gombold the one that needs to do that now?” Strommen, “He could do that, however, there is no division allowed of the property allowed by the terms of the conservation easement. So he would not be able to convey that sixty-six foot easement to the City without our conservation easement being terminated.” DeRoche, “We are not looking at sixty-six feet of property; we are looking at an easement, right?” Davis, “This would be road right-of-way.”

Davis asked Jochum if he was able to determine any particulars of road width or existing easements on Klondike. Jochum, “It referred to some type of document which I didn’t have. But it appeared to have thirty-three feet of easement on Klondike.” Voss said we went through that argument during preliminary also. I remember that. Mr. Gombold was saying the easement was there and we were saying it wasn’t. Jochum, “We are requesting our standard forty feet of easement for a collector road. Along with an easement where the water already goes. Essentially, asking to use it for what it is already being used for. So there is no

change in conservation or use of the land.” Voss asked are you asking for easement or right-of-way? Davis, “Right-of-way and a little drainage easement.” Davis, “We did traffic counts on Klondike. The previous counts from Palisade going west in 2009 were 395 vehicles a day. Going East was 200 vehicles a day. With the construction, the high count was almost 1500 vehicles a day going west and approximately 1,000 going east. So that road will be an important connection in the future.”

Moegerle, “Why can’t the original parties to the conservation easement re-write it? Such as a mistake-of-fact in a contract? Is that something that Mr. Gombold doesn’t want to do? Is it about the money?” Strommen, “Generally amendments to conservation easements are very rare. They are taken very seriously. There are some within our field that say you can never amend a conservation easement. The conservation easement spells out the terms in which it can be amended and they are very narrow. Our organizational policy says there must be conservation gain. It is not something we can simply agree to, nor can Mr. Gombold, we would again need permission from the state to do that.”

Let me go back and separate the two issues. It is fee title road right-of-way, along Klondike and drainage and utility easement for storm water along Klondike. So the problem with the fee title issue is whoever owns it does not have the right to convey the property under the conservation easement because it cannot be divided. It has to remain under one ownership. Unfortunately, that is considered change of use because it is now road right-of-way instead of conservation land. So, for both of those issues I think we would be looking at termination of the conservation easement. Again, we just did this recently in Blaine on Radisson Road. For the storm water piece, we would have to look at what the design is. Conservation design only allows benefits to wildlife.”

Lawrence, “Obviously it is like your group owns the land, bought with money by the state. If you have to give up some of your land, the state is going to want some of their money back, is that Mr. Gombold responsibility to pay that to the state?” Strommen, “In this case, if the City was acquiring the right-of-way, they would have to compensate the Minnesota Land Trust and ACD for the value in the interest we would have to give up in the property and then we would need to share that back with the state.” Vierling, “The City’s valuation of it really wouldn’t differentiate from any other condemnation matter. We would pay fair market value, whatever that ends up to be. The appraiser would have to consider the basin that is already there.” Strommen, “However the appraiser would look at it. Our issue is we have to be compensated for it.”

Voss said it seems like we are having this discussion about something in the future. We obviously don’t have any plans for Klondike right now. Why would we go through condemnation now? Vierling, “You would probably go through it now if you think you are going to go forward with this project in the next 12-18 months. Also, given the current status of the market if you felt that the market was at an all-time low and it is an appropriate time to appraise as opposed to waiting for values to go up.” Voss asked if we don’t have a project does that bear at all on the condemnation hearings? Vierling, “Eminent domain proceedings are the establishment of a public purpose. We have a road there presently, such as it is, and you know at some point and time you are going to have to expand on it and improve it. By Statute, we have to have Council adopt a resolution authorizing the eminent domain taking, once you have that in place the public purpose is in place, whether or not you intend to use it currently or some years down the future, it doesn’t matter.” Voss asked if we do the project we will have other condemnations, what make better financial sense, to do them piece meal or all together? Vierling, “Might make more sense to take them all at the same time.”

Moegerle, “Where is Mr. Gombold on the issue? Is he accepting of this? Would he entertain the idea of amending the conservation easement? This seems to me the easiest route to go before we get too many other parties involved.” Vierling, “As I understand it, the proposal is for Mr. Gombold to deed his interest to the DNR. In which case Mr. Gombold would be out of the picture. You are not adding a party, you are substituting a party.” Lawrence, “Essentially the DNR is willing to take care of this issue.” Strommen, “If the property transfers from Gombold to the DNR, we will be happy to work with you even after the DNR takes ownership. The preference is to not hold up the transfer between Mr. Gombold and the DNR.” Lueth, “It has been a long process. We have a two month extension. We have a narrow time line. The easement issue doesn’t change, we would like to take advantage of the opportunity and work on it from there.” Voss asked you are seeking the Resolution of Support? Davis, “You need this resolution of support or it won’t go forward?” Lueth, “Anoka County likes us to get a resolution, either of support or denial and their approval is based on it.”

Voss asked if we go through condemnation to get this property, is there a difference if it is a state entity that owns the property versus a private entity. Vierling, “Yes. Obviously you are dealing with a state department relative to their interest in the property and the acquisition rules with regard to state lands do defer although in some respects it may be easier in the long run then dealing with an absentee owner that is not around. Think as long as we have some recognition from DNR that we have a road there that needs to be upgraded and that they are willing to work with the City at that time we will be fine.”

**Moegerle made a motion to adopt Resolution 2012-38 Approving the Sale of 44.97 Acres of Land in the City of East Bethel to the Minnesota Department of Natural Resources to Become Part of Beaverbrook State Wildlife Management Area. Voss seconded; all in favor, motion carries.**

#### Assessing Contract

Davis explained that the request for proposals for assessing services was advertised in the Anoka County Union and on the League of Minnesota Cities website. The City received one response, from the current City Assessor, Kenneth Tolzmann. The total cost of assessing services from Mr. Tolzmann’s proposal is \$51,699. City staff requested assessing services rates from Anoka County Assessor Mike Sutherland. Estimated cost for assessing services through Anoka County is \$71,407.

Staff recommends awarding of the assessing services contract for three years to Kenneth Tolzmann.

Voss asked is this the same agreement as in the past years? Davis, “It is exactly the same agreement we had in place before.”

**Voss made a motion to approve the agreement with Kenneth Tolzmann for Assessing Services for three years (2013-2015) at an annual rate of \$51,699. Lawrence seconded; all in favor, motion carries.**

#### Appoint Financial Consultants

Davis explained that Council solicited RFP’s for the position of Financial Services Advisor and four firms responded. The interviews were conducted earlier this evening during the work meeting prior to the Council meeting.

The four firms interviewed were

- 1.) Springsted, Incorporated;
- 2.) Ehlers, Incorporated;
- 3.) The PFM Group; and
- 4.) Northland Securities

Funds for these services are provided when specific projects are requested, such as in a Bond Issuance or Economic Development programs.

Staff requests Council consider the appointment of the Financial Services Advisor from those firms interviewed at the Work Meeting held on August 1, 2012.

Lawrence, "We don't have a full Council and I am wondering if we should have Council Member Boyer here to get a full vote on this." Voss said I think you want to make a change, so you need to vote on this. I don't know why you would put it off. Davis, "In all probability, there are things on the horizon that we may be engaging their services by the end of next week. So I think we need to make a decision on this as soon as possible."

Moegerle, "It would be helpful to have a summary of the fee proposals. They look pretty comparable. Where one is high, it is low on the other." Davis, "I have here a compilation of their fees. However, they are somewhat difficult to compare. They are not apples to apples. Some of the terminology used by the different firms for different positions varies. So this is the best we could come up with. It is a breakdown of their proposed fees." DeRoche, "Northland Securities seemed pretty up on what was going on around here. Apparently they have done their homework." Moegerle, "And they have worked with Cities of our size, including smaller cities; the City of Bethel." DeRoche, "That is kind of what we have to find. We don't need someone that is working with the City of Minneapolis or St. Paul. People have to tailor things to fit what East Bethel is." Moegerle, "I think everyone is personable and experienced. It is interesting how everyone, except Northland, represented that they are number one in something."

Lawrence, "I thought everyone gave a pretty good presentation this afternoon. PFM or Springsted would be the top two in my opinion. And I would be leaning more towards Springsted than PFM." Moegerle, "Vierling have you worked with these groups?" Vierling, "Yes, we have worked with all of them. PFM not as much, because they are more of a national group." DeRoche, "Well, a couple of them said they were looking out for our interests and I decided not to comment on that." Moegerle, "I was impressed that Northland had to say about the refunding issue; that by waiting we have in fact saved more money, than if we would have gone ahead as we were originally approached for the refunding." Lawrence, "Except that is hindsight." Moegerle, "At that time I thought it would be less. And they told us the longer we waited the more we would save due to the offset. So, I don't think it is hindsight." DeRoche, "I don't think our financial advice has been what it should have been. And I don't want the same advice going forward. I don't think we would be in the same situation we are in, if it was what it should have been." Davis, "There is one other thing you can consider, if you want more time to analyze the proposals we are going to propose we schedule a work meeting next week. We could call a special meeting prior to that to consider this if you need more time for deliberation."

**DeRoche made a motion to appoint Northland Securities as our financial securities advisor for the City. Moegerle seconded. Voss and Lawrence, nay; Moegerle and DeRoche, aye; motion fails.**

Davis explained that on Wednesday, July 11, 2012, staff provided Council with a proposed 2013 Budget. The proposed budget is available on the City's website and at the City Hall receptionist area.

A budget work session was held on Monday, July 23, 2012. Department Heads presented their budget requests to Council at this meeting and matters relating to alternatives to cover anticipated bond payment deficits for 2013 were discussed. The budget review was not completed during that work session.

Prior to September 15, 2012 the City Council must adopt a preliminary budget and levy for 2013 to be provided to the Anoka County Auditor. The preliminary levy will be used to provide property taxpayers with parcel specific notices in November for pay 2013 taxes. The final 2013 Budget and levy are then adopted by City Council in December.

Staff is requesting Council set a work session(s) meeting date(s) to continue to review the proposed 2013 Budget. It is recommended that either Tuesday August 7, 2012 be set as the work meeting date with Wednesday, August 8, 2012 as an alternate date.

Voss said if everything goes well, I won't be available next week, but I may be in town Tuesday night. DeRoche, "I say Wednesday." Davis, "The one reason we might want to consider Tuesday is, if we don't resolve anything with the request for Aggressive Hydraulics, and want to call a special meeting, Mr. Johnson would want to be here. He is going to be out of town on August 8<sup>th</sup>. He couldn't be here tonight either, but he is represented by one of his employees, Mr. Mack. But if we do want to call that, I would prefer we try to do it on Tuesday, August 7<sup>th</sup> in case we have to have a special meeting also." DeRoche, "I have a class on Tuesday that I am teaching." Moegerle, "And you are on the Budget/Finance Committee." DeRoche, "Yes." Voss asked how about Monday? Davis, "Monday would work also." Voss said no guarantee, but I think I have to be here Monday also. Council consensus was to schedule the budget work meeting on Monday, August 6<sup>th</sup> at 6:00 p.m.

Aggressive  
Hydraulics  
Gap Financing

Davis explained Aggressive Hydraulics, Inc. (the Company), a hydraulic cylinder engineering and manufacturing company located in Blaine, has approached the City of East Bethel regarding the relocation of the Company to the City at a site located at 18800 Ulysses Street. The Company proposes to build a 60,000 square foot facility and has secured private financing for the bulk of the Project. However, lower than anticipate appraisal values have created a financing gap in the funding necessary to complete the Project. The original gap estimate was \$900,000 but this amount has been reduced to \$300,000 due to other sources of financing secured by the Company and some reductions in the scope of the project. The project cannot move forward and construction cannot commence until all financing components are in place.

A number of meetings and teleconferences have occurred over the past few weeks discussing the financing gap and solutions to resolve this issue. The proposal outlined in this staff report has been discussed and has the consent of City staff, Paul Johnson and the financing bank, but would be subject to final approval by the Company and the City Council.

Tax Increment Financing

To complete the project a road extension and storm water infrastructure must be provided to and on the site. An often used development tool to finance infrastructure needs is Tax Increment Financing (TIF). In a typical development project of this type, the underlying land has a relatively low value, due to its vacancy and existing land use of the property. Once a

development and improvements are completed, the land appreciates in value. The taxable difference (the increment) between the original land value and the post-project land value is captured and is segregated by the City to pay for the costs of the development. Once those costs are paid and the TIF District expires, the increased taxes derived from the higher land value go back to the applicable governmental units with jurisdiction.

To apply this framework to the current situation, the property has a current land value that has not reached its full potential, due to its undeveloped state and lack of full infrastructure. If the City pays for the storm water and street infrastructure, once the project is completed, the City will be able to be repaid from the TIF tax increments captured from the project. Further details on the value TIF revenues projected from the improvements on the property, (the duration of the payback period and other applicable factors) are still to be determined. City staff has made some preliminary projections, which indicate that current taxes received from the property are \$660 and the addition of a \$3.5 building will produce approximately \$84,000 in City, County, School and EDA taxes.

#### Economic Development TIF District

To use TIF as a financing tool, requirements in state law must be followed. These requirements are generally located in Minnesota Statutes, Sections 469.174 through 469.1799, as amended (the "TIF Act"). For initial purposes it is presumed that the City's Economic Development Authority (EDA) will take the lead on the creation and administration of any TIF districts established for this project.

#### TIF District Creation Process

Depending on when the process begins, the TIF District could be created in about five weeks. The major work product drafted during this time is the TIF Plan. The TIF Plan must follow the requirements found in the TIF Act, and is typically drafted by the City Attorney or the City's financial advisor. The TIF Plan is closely reviewed and revised to account for all facets of the project, and it must carefully project future TIF revenues. Other events that happen during the approximate five-week period are outlined as follows (all dates are estimates and subject to change depending on circumstances):

- August 7<sup>th</sup> or 8<sup>th</sup>, 2012: Council calls for public hearing on creation of a TIF District at a special meeting.
- By August 20, 2012: Draft TIF Plan and fiscal implications of TIF District provided to Anoka County and Independent School District No. 15 for review and comment.
- From August 20-September 9, 2012: Notice of the TIF public hearing must be published at least once in a newspaper of general circulation in the City.
- No later than September 19, 2012 (City Council regular meeting or a special meeting): Public hearing on creation of TIF District and adoption of TIF Plan.

After the TIF District is created and upon request of the EDA, Anoka County Property Records and Taxation will certify the TIF District so the City can receive all future TIF revenues from the County which are typically paid to cities with regular property tax payments.

#### General Obligation TIF Bonds

This proposal has discussed the basics of TIF financing and the TIF District creation process, but the main issue with this project is that the Company needs up-front money to proceed. To close the financing gap, the City has been requested to provide that up-front money.

It was first proposed that the City or the EDA would extend a short-term loan to the Company for the amount of the financing gap. The City's Housing and Redevelopment Authority (HRA) maintains a fund sufficient to cover the amount of the loan, but that money is meant for other purposes. However, it was proposed that the HRA execute an inter-fund loan to the EDA, which would in turn loan the money to the Company, so the project could commence. For security in this instance and as example, the EDA would require personal guarantees from the Company's owners, as well as receipt of any sale proceeds the Company realizes from its current facilities in Blaine for collateral. This interim loan would pay for the necessary infrastructure improvements and then would be paid off when the City issues General Obligation TIF Bonds. It soon became clear that the complexity of the interim loan and the perfection of the required loan security outweighed the need to save a small amount of time, perhaps a week or two, on the project's commencement. In other words, drafting the interim loan documents, sending the documents out to all parties for review and comment, and approval by the City Council would take almost as much time as creation of the TIF District. If the Company insists, it is always possible to resurrect this format, but it is likely unnecessary.

Therefore, the most cost-efficient way for the City to provide up-front financing for the Project is through the issuance of General Obligation Tax Increment Bonds (TIF Bonds). The TIF Bonds would be repaid through the receipt of TIF revenues over the eight to nine year life of the TIF District. It should be noted that the Bonds would be a general obligation of the City, and in case there is ever a shortage of TIF revenues to pay debt service, the full faith and credit of the City would have to make up the difference, whether through a tax levy, fund transfer or other method payment or collection. It is therefore crucial that City staff and the City's financial advisor carefully project the amount of TIF revenues to be realized from the project to minimize the City's exposure to any shortfalls. TIF Bonds are not subject to a referendum and are not considered net debt of the City.

It is anticipated that the TIF bonds would carry a tax-exempt interest rate, which are at historic lows. In order to qualify for the tax-exempt status, the bonds must finance solely public infrastructure, and they must be repaid from public sources. In this case the TIF Bonds would be tax-exempt because they are paid from TIF revenues, which are otherwise known as "generally applicable taxes" paid from a public source. If the City accepts any private payments or security on the TIF Bonds, the TIF Bonds will likely be rendered taxable, and will carry a higher interest rate. The simple act of entering into the payment guarantee by the company or the planned use of non-public funds, even if never exercised, would likely render the TIF Bonds taxable.

The TIF Bonds will also likely be declared taxable if the City requires the Company to enter into a minimum assessment agreement covering the project. A minimum assessment agreement establishes a minimum value of the property for the entire duration of the TIF District. If a minimum value is established, there will always be TIF revenues received in an amount derived from that minimum value. The benefit to such an agreement is that the City could determine how much in TIF revenues are required to pay debt service on the TIF Bonds, and then set the minimum value of the Property to equal at least that amount. This act would provide some stability in that the City could rely on a steady stream of debt service payments over the term of the TIF Bonds. The drawback to such an agreement is the interest

rate on the TIF Bonds would likely be taxable. An analysis and recommendation from the City's financial advisor would be necessary to determine whether a minimum assessment agreement or corporate guarantees would constitute a net benefit to the City.

Another potential financing method that was discussed was a Minnesota Rural Water Association (MRWA) loan program that serves as a quick alternative to conventional general obligation bonds. To be eligible, a municipality must carry a general obligation direct debt of less than \$5,000 per capita. Loans may be made with terms of 15 years or less and a maximum principal amount of \$1,000,000. The web page for this program is located at [www.mrwa.com/midi.htm](http://www.mrwa.com/midi.htm). This could be favorable to the City, as no Official Statement and no rating is required. The City would incur the program fee of \$11,410, along with regular attorney fees and staff time, but it is conceivable these costs of issuance could be less than a public bond issue. The City's financial advisor would be required to evaluate this option in relation to normal bond issuances as to its value in this application.

### Financing Alternatives

This proposal has focused on TIF, to the exclusion of other financing alternatives. As we discovered with potential DEED funding, there are no state financing programs available for this Project. An additional alternative would be the use of tax abatement. Tax abatement allows the City to capture taxes from the Project and redirect those taxes to pay for the costs of the improvements. Tax abatement is an alternative to TIF and they cannot be used in tandem. Unlike TIF, in abatement, the County and School District may each refuse to abate their own taxes derived from the parcel. The maximum tax abatement duration is 20 years, assuming no other governmental entities join the abatement. This maximum term is more than twice as long as the maximum term of an Economic Development TIF District, but more revenues are derived at a faster rate from TIF, since all local taxes are captured in a TIF scenario. Imposing a tax abatement takes about the same time as establishing a TIF District, since a public hearing is also required for abatement. The City can issue General Obligation Tax Abatement Bonds as well, which may be used for public improvements *or* to reimburse the Company for improvements made to the Property (broader authority than TIF). These bonds are not subject to a referendum and are not considered debt of the City. Finally, just as in TIF, an analysis must be done to determine whether the Project will produce enough tax abatement to pay off bonds in a maximum 20-year time frame.

As a final alternative, the EDA could just loan the full \$300,000 financing gap to the Company, under a loan agreement. The EDA would set a repayment term and would secure itself through personal guarantees of the Company's owners, receipt of the sale proceeds of the Company's current facilities, and through other means, such as through liens on personal property, a mortgage on the Property, etc. A benefit to this approach is that the EDA does not have to go through the steps of drafting a TIF Plan, establishing a TIF District, and issuing general obligation bonds. A drawback is this loan would encumber a significant portion of the HRA's reserve fund for a number of years, and, if the Project does not go forward, or the Company cannot make full payments on the loan, the EDA/City would have to undertake efforts to collect unpaid amounts.

Assuming the City Council is favorable regarding proceeding with this project, Staff recommends approving steps immediately to draft a TIF Plan and the necessary public hearing notices for the Economic Development TIF District. This process will require frequent collaboration with the Company, the private bank, the City Attorney, and the City's financial advisor to meet all strict legal requirements. The Council can always terminate this process at any time. Concurrently with the TIF District process, the necessary calculations

and background work to determine the terms of the TIF Bonds should be done. More information is needed to determine the most efficient way to sell the bonds, either public/competitive, private/bank placement, or through the MRWA loan program. Again, collaboration between all parties is necessary, as a presentation of the City's financial balance sheets and information on the project will likely be required regardless of how bonds are sold. It appears the interim loan from the HRA fund can hopefully be dismissed, as it has become clear the complexity of such a loan may not be worth the slight savings in time the loan brings.

Staff recommends approving Economic Development TIF financing for this project in the amount of \$300,000 and proceeding with all requirements that need to be fulfilled as expeditiously as possible.

Moegerle, "On page 60, the "estimated taxes" does not include fiscal disparities. Can you explain that? Davis, "The fiscal disparities would be part of those numbers, but they wouldn't be considered for what we would generate for Tax Increment." Voss asked what are the current taxes on this property? Davis, "15 acres on the site, current city/school and county is \$660 a year." Voss asked so the city tax portion is roughly \$200 a year? So difference predevelopment is \$30,000 a year. And how many employees do they have? Davis, "They will be starting out at 45 and going to about 60." Voss asked did the EDA discuss these options? Davis, "The EDA discussed these options and they were in favor of engaging in a conversation with Council and they approved the concept."

Vierling introduced Andy Pratt, an attorney from Eckberg Lammers, our office, who specializes in public finance.

Pratt, "As far as recommendations that is left up to you. The legalities, we can certainly say this is a very common way to finance things. Sometimes when you have a gap like this you have to get creative. The challenge you have to this is it is upfront and a significant amount of financing." Moegerle, "During interviews of the financial analysts they brought up "Pay As You Go TIF" is that an option here or not?" Pratt, "I don't think it is an option. "Pay As You Go" financing is where the private developer would take all the risk and pay the bills and then the private developer would get paid back with the tax revenues. As far as I understand it the developer is short."

Lawrence, "The borrowing of money from the city like this. Is it common? What is the timeline on payback to the city in this particular instance?" Pratt, "If you do a TIF District, the city and staff has done an estimation on what will get paid back based on tax rates. That will do the stream of payments, over 8 to 9 years. You have to make sure security is sufficient be repaid." DeRoche, "How critical is it that we have a financial advisor look at this?" Pratt, "I have drafted many TIF Plans and there is a huge amount of financial projections in that document, that is what a financial advisor does." Davis, "As far as TIF goes, this is the simplest one and the one that has least risk to the city. What we have here going forward is two options. If we can provide TIF financing to company, gets back to win/win situation. The win/win situation is the company gets financing so they came proceed with project. City gets the potential to increase tax base. We also will get 16 ERUs, flow from project, plus have a minimum of 45-50 people buying gas, groceries and other items. If we don't do it, and the project doesn't go forward we have a cornfield that we collect \$220 taxes from."

Lawrence, "Can they wait for us to get TIF District constructed or do we borrow the money

from HRA and pay them back with the TIF District.” Davis, “If we borrow the money from the HRA, the complexity of the timing, we are really not going to save much time. Simplest thing is to do a TIF district.”

**DeRoche made a motion to direct staff to start looking at TIF Planning and TIF Districting. Moegerle seconded.**

Voss asked when we talked about this in the past, I think there as a commitment about the sale of property. Was that estimate \$150,000? Davis, “One building they are in now they have a buyer for and those funds are already committed to their project about \$550,000. Their other building has \$225,000 equity is approximately, but they don’t have it for sale yet and one of the reasons is because they don’t know when they will be able to be out of that building. One of the discussions was that they could use it as creditor collateral.” Voss asked if we do a loan how do we assure ourselves that we are the first for any proceeds other than putting a mortgage on it? Vierling, “The mortgage you would need to recognize that it might be underfunded. That is where you get into personal guarantees and pledges from the company. It is complex in terms of having a staging of sometimes two or three different mortgages on the property. In many respects you are almost better off with either the abatement or TIF process in being more secure. Taxes have to be paid unless everything goes completely in the tank and goes forfeit.”

Voss asked if we go with the TIF option, do we still get the revenue from the sale of this building? Davis, “That goes off the table. One of the other things we looked at with the loan was we would be at best in second or third position.” DeRoche, “Considering this is going in to the infrastructure, at some point this will have to be in there anyway.” Davis, “That is correct. This TIF is for infrastructure. Streets, storm water improvements. So if worse came to worse, Aggressive Hydraulics left, we at least have something to show for our investment. Not that this is going to happen.” **All in favor, motion carries.**

Council  
Reports –  
DeRoche

DeRoche, “Booster Days turned out really well. Jonah and Whales played at the dance, that was a good time. The parade was good, a little warm, but a good time. I want to thank the Anoka County Sheriff’s Department. I want on a motorcycle run over the weekend, Operation Independence, which takes the proceeds and builds homes and remodels homes for veterans that are coming back in pieces. They did a bang-up job in traffic control in the intersections. There was approximately 250 motorcycles. Without them it would be really kind of a mess. Along with all the municipalities that we went into they pretty much did the same. I would like to get the East Bethel Fire Department involved in some of the runs that end in the City or leave the City. On Saturday, in North Branch the fire department escorted us into town and I think it is a big boost for the community. I think the people really get into that. I don’t know if East Bethel Fire has been asked to do that, but I have talked to Mark DuCharme about it. We are looking for an identity and we don’t have a big water park, or other things.

Other than that, there is a lot of stuff in the lakes. I went down yesterday and it looked like someone had dumped a big load of oatmeal in there. It was stuff I had never seen in Coon Lake. I don’t know if it is in the rest of the lakes. Maybe I will have to get ahold of the DNR. I have tried talking to the waters person and didn’t really get any response. Friday night the explorers did waterball.

Council  
Reports –

Moegerle, “I also attended Booster Day. The EDA had a table there and we got 89 people to complete our survey about the businesses that residents would like to see attracted to the 65 corridor. We have got that information tabulated. We are also requesting residents to complete that EDA Survey which is on the website or you can come into City Hall and

complete it here. It is very helpful to us for our efforts for recruiting businesses to East Bethel. Last night the Website Committee met and we are going to make a recommendation to the Council at the next meeting about resolving the controversy about the website. So, I think that is a very successful and good development.

Last Wednesday I attended the Met Council meeting and spoke at the open forum with regard to the idea that our wastewater treatment plant accept and treat seepage. I asked them to be creative and open and responsive to that idea. We have gotten a response back, and their concern was that the sludge would have to be transported down to Fridley. I did call one of the sod operations and they said they would be glad to take the East Bethel sludge; however, there wouldn't be enough sludge to be putting on their crops. I think the budget discussion is going to be very interesting. I have concerns about pay increases and how that will be resolved and where we can find some of that funding.

Council Reports –

Voss asked about the road projects, Viking and 65, are they on schedule? Davis, “The 65 project is a week behind schedule. The anticipate completion the first week of September. As far as I know, Viking/22 is still on schedule. The 65 project, they had a couple weather delays and also they had delays in all the components for the temporary traffic signal. Talked to MnDOT engineer and he said they could make up some time. 237<sup>th</sup>/65 intersection is closed until Tuesday of next week. The 221<sup>st</sup> intersection is open now. Also, if we could schedule a special meeting before the work meeting to address the issue of the financial consultants. I would ask that you make that motion now.”

**Moegerle made a motion to schedule a special meeting on Monday, August 6, 2012 before the work meeting to address the issue of the financial consultants.** Voss asked what issue do we have? Do we not have a financial advisor now? Davis, “This is about changing advisors.” **Lawrence seconded. Voss, nay; DeRoche, Lawrence and Moegerle, aye; motion carries.** Voss said we just voted on this. I guess we will keep voting on this until you get the right answer.

Council Reports -

Lawrence, “Basically we covered a lot of stuff today. Elections are now open to sign up to run for Mayor and Council. They close August 14<sup>th</sup> at 5:00 p.m. If you have any questions on that give me a call. I will be happy to review what we do at the City.”

Adjourn

**Voss made a motion to adjourn at 8:58 PM. Lawrence seconded; all in favor, motion carries.**

Attest:

Wendy Warren  
Deputy City Clerk