

EAST BETHEL CITY COUNCIL MEETING

OCTOBER 28, 2015

The East Bethel City Council met on October 28, 2015, at 7:00 p.m. for the City Council Work Meeting at City Hall.

MEMBERS PRESENT: Steve Voss Ron Koller Tim Harrington
Brian Mundle Tom Ronning

ALSO PRESENT: Jack Davis, City Administrator
City Building Official, Nick Schmitz

1.0 Call to Order The October 28, 2015, City Council Work Meeting was called to order by Mayor Voss at 7:00 p.m.

2.0 Adopt Agenda **Harrington stated I'll make a motion to adopt tonight's agenda. Koller stated I'll second.** Voss stated any discussion? All in favor say aye?" **All in favor.** Voss stated opposed? Hearing none, motion passes. **Motion passes unanimously.**

3.0 Proposed Amendment to Rental Ordinance Davis presented the staff report, indicating the 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 probably not prevent these owners from continuing to rent their property. With 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.

Davis stated we have with us tonight Nick Schmitz, our Building Official, to help us answer some questions on that. Basically what we've run into are people are fearful of coming up and having a septic system compliance check, which is part of the ordinance requirement, for fear it won't pass compliance even though, again, most of them are probably working properly. They just don't meet current standards. So, this is kind of a 'tightrope' we're walking here but we might want to consider maybe changing the language on this about inspections just to make sure that their sewage disposal systems don't pose any eminent public health situations on the property.

Voss stated I guess the first question I have is what all is involved in a system compliance inspection. Schmitz stated septic system compliance inspection requires that a private septic inspector would go out and look at the septic tank to make sure there's no cracks or leaks in the tank, make sure nothing is surfacing outside or backing up into the house. Either one of those would be an eminent health threat. The most reasons septic systems fail is because they don't meet the separation required by the State of Minnesota. The either two- or three-foot

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separation, depending on when the system was installed. That's really why most systems fail. They don't have the separation between the redox or mottled soil, which is deposited when the water table is at its highest, and the bottom of the rock bed. That's pretty much what a compliance inspection looks for.

Voss asked now the compliance inspection is done by the contractors that do the pumping, correct? Schmitz stated no, by a licensed septic system inspector. Pumpers do inspect tanks when they pump the tanks but they're only inspecting the tank itself. In other words, if there's a baffle on it; is the manhole cover intact and safe; is it broken; is it not broken. They're not doing any kind of soil borings or determining the separation between the bottom of the rock bed and any redox.

Voss asked so at what times does the City require system compliance inspections to be done? Schmitz stated right now the City requires compliance inspection when anybody sells a house or if anybody is adding a bedroom, remodeling the shoreland management area. There's certain criteria. I don't have all of them here. Voss asked but there's no routine compliance inspection? Schmitz answered no.

Koller asked how do they tell where the mottled soil level is. Do they dig down? Schmitz stated yeah, they do a soil boring. The redox or the mottled soil; it's iron stains, usually reds or grays. When they find that, it's where the water table is when it's at its highest. And that could have been something from 10 years ago, 10,000 years ago, could be seasonal. But, that's how they determine where the water table is at its highest.

Ronning asked if the owner lived in that house, would that be a failed system? Or, would it just be a system? Schmitz stated if they were renting it? Ronning stated no, if they lived in the house themselves. Schmitz stated if they lived in the house, there's no requirement for a compliance inspection. But once something triggers it and it is found not compliant, they need to bring it up to Code.

Voss stated so when they sell a house, put on a deck in the Shoreline District, adding bedrooms, basically. Schmitz stated yeah, adding bedrooms. Davis stated or if you do a major remodel and expand your kitchen, something like that. Sometimes those can trigger the need for the compliance inspection.

Ronning asked as far as Statute changes, does the sale go grandfathered to the next person as long as their separation and stuff is right? Schmitz stated say they had a compliance inspection, are you saying and if it failed? Ronning stated no and asked to what extent is it grandfathered in those. Schmitz explained the State of Minnesota states that if it's a new system being installed, the original inspection is good for five years. Any inspection after that is good for three years. So after the five or three years, down the road, you don't need to do anything until a compliance inspection is required by City Ordinance or State Statute.

Davis asked Nick, what were the basic differences in soil separations, say from the mid-1990s until now? How much is that increased or decreased? Schmitz explained up until April of 1996, if an inspector went out and did a compliance inspection, it only required a two-foot separation. The State of Minnesota determines that two feet is adequate to treat the wastewater, the effluent. After that, it requires a three-foot separation. The State used to always, and still does, require a three-foot separation but due to settling of soil and things like that, a lot of septic systems were failing. They were putting in brand new septic systems with that three-foot separation but as soon as the State started requiring compliance inspections, a lot of septic systems were failing because of settling. So, a compliance inspector would go out there and find out that it may fail due to two or three inches of settling and now the homeowner had to put

in a new drainfield. So, what the State did was, in 1996, they said, 'Okay, we need these to pass three-foot separation so anything before this we will allow a two-foot separation for existing systems.' That's kind of grandfathered. After that, it's a three-foot separation requirement.

Schmitz explained that since then, they were still having some septic systems fail so they allowed cities and counties to adopt this 15% reduction. Each city or county, if they wanted to do that, they could do that and we have adopted that. So, if we had a system that went in with a 36-inch separation new and say it went in four years ago and now you could pass with that 15% reduction so it would not have to meet a 36-inch separation. 15% from 36 is around 32 inches.

Davis stated so the issue we're hearing is that because the full compliance measures that are specified in our Ordinance, there are people that would willingly get their license but now are fearful to do so because they feel their system may not pass the test and then they'll have to install a new system. Even though their system at least appears to be functioning properly.

Schmitz stated I always tell people septic systems do two things. They make the wastewater go away and not back up into the house or surface on the ground, which would be an eminent health threat. And then they treat the wastewater with the separation. When we drafted the Rental Ordinance, we thought it was a great idea to have a bunch of safety measures and that's why we have the Ordinance. Smoke detectors and stuff like that. We thought it was a good idea but in hindsight now, after we started the program and finding out, we're hearing from people that if they have to get a compliance inspection, they're 'putting the breaks' on it. We had one couple, they weren't going to do it. To my surprise, they decided to have a compliance inspection done and it did pass. To my surprise too because the septic system was installed in the 1970s. It just happened to be really high ground and it just happened to be a shallow system that went in at the time.

Schmitz stated I have since spoken with another guy. I went to do a rental inspection and when he found the extent of that compliance inspection and if it failed he would need a new drainfield, he told me he wasn't going to go any further. He wanted me to inspect it for safety, fire, electrical, anything that was a hazard to anybody. So, he wanted that part of it inspected but he told me he was in no way going to have a compliance inspection on his septic system knowing there was a good chance he's going to have to put in a new drainfield.

Voss stated let me ask this. We have a requirement within this Ordinance that the septic pumping has to be kept up-to-date. Schmitz stated that's correct. Voss stated if that's being kept up-to-date and the pumpers are inspecting to make sure baffles are in there and if they saw an issue, the sewage was coming out the top I'm sure they would report that. Wouldn't they? Schmitz answered yes, I believe so. But that's something we would look at too.

Schmitz stated if this got passed where it was just an eminent health threat when we did a rental inspection, what we're thinking right now is we would do everything that was originally passed by the City Council for rental license. When it came to the septic system, we would just be looking that the pumping is current (within three years as required by the State) and we would look to see if there's any signs of sewage backing up into the house or surfacing.

Voss stated okay, I think that's the intent. Schmitz stated the intent is that renters are in a safe environment and if we don't get in there to inspect these, if people are afraid they're going to have to put in a new drainfield, people are going to keep doing what they are going to do. And, we're not going to be able to get in there and make sure they have smoke detectors and fire extinguishers and electrical covers/panels, and all of that stuff is safe.

3.0 Ronning stated the people I've spoken with, seems most of them are afraid they're going to

have to put a mound system in and the cost that goes with that. Voss stated I've heard some concerns too.

Harrington stated I've got a question Nick. You said, is it three years the septic has to be pumped? Is that a law? Schmitz stated it is State law. Harrington stated State law, okay because... Schmitz stated there's two things that go with that. They either have to be pumped every three years or inspected by a qualified person or licensed person. The thing is if you have it inspected by a licensed person, it cost just as much to have it pumped.

Harrington stated okay. I've talked to pumpers that told people you don't have to, you can wait another year, four years, you don't have to do it in three years. I didn't know that was a State law. Schmitz stated it is and like I said, it can be inspected but it would have to be inspected by a qualified person. And, again, pumping may cost, I'm not quite sure what it costs today, maybe \$150. Voss stated it's more like \$250. Schmitz stated is it \$250?

Harrington stated yeah, \$250 now. What's an inspection then? Schmitz stated I'm not quite sure. A compliance inspection is around \$350. To inspect the tank, I would imagine it's at least \$150 to get somebody out there. Voss stated yeah, just to get them out there and open it up, I'm sure. Davis stated not only is it State law, it's part of the City's Ordinance too.

Voss stated I think you all know, I've got two rental properties and it is a good thing to have them pumped every three years anyway because you don't know what they're doing or pumping down the drain. They could be pumping grease down there, you don't know.

Davis stated we're approaching the Council tonight for some direction to see if there's a need to try to modify any of the language on this portion of the ordinance that would address some of these concerns and still try to craft it so it still provides protections for eminent threats to public health and safety.

Voss asked staff is recommending to change the language to just delete the compliance inspection? Schmitz stated delete the compliance inspection but we would maintain the eminent health threat part of it. In other words, if sewage was backing up or surfacing then we would require them, at that time, to get a full compliance inspection to determine if the septic system is an eminent health threat or if they have something else going on.

Voss stated it's sort of the analogy that instead of searching everybody, you see evidence of an issue and then you go after it. Schmitz stated that's correct. Voss asked 'probable cause' is that the term?

Koller stated that makes more sense. Voss stated I think it does too. I've got one rental property that's the 1970s, one system I put in 2 years ago and I'd be concerned that Code changed and my new system is not up to par. I know my old system is not up to current Code. It's got separation, I'm not worried about that but there's other things in there I'd be worried about. Voss stated I think the objective is, is it operating. Is it functioning?

Ronning asked can we word it something like, the septic treatment would be treated as though the owner were living there and whatever you call the obvious things would trigger a more thorough inspection. Davis stated I don't know if we even want to be that specific. Just say this is the requirement for septic inspection. It has to be pumped every three years and there has to be no evidence of eminent threats to public health or safety.

Mundle agreed and stated that works just fine. Koller stated the City would have a record of all the pumpings. Davis stated yes. Koller stated so that would be nice.

Proposed
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Davis stated this still keeps in our same policy of what triggers a compliance inspection intact also. As Nick said, the sale of the property, the addition of a bedroom, or a major remodeling involving extensive plumbing. So, we don't change any of that and we still follow the same test and pattern for that type of inspection. Ronning stated that sounds good to me.

Voss asked you'll draft the changes for the next Council packet? Davis stated they'll be in the next one if we can get them done. I'll try to get them done so we can get them in the next Wednesday's meeting. Koller stated that sounds good.

Davis stated Nick, thanks for coming. That's very helpful information and I appreciate it. Schmitz stated you're welcome. Voss stated you haven't inspected my places yet because I'm not ready for you. Schmitz asked any other questions for me before I leave? Koller stated no, that would do it. The Council thanked Schmitz.

**4.0
Discussion of
Incentives of
the City's
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Davis presented the staff report, indicating 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 city's 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; and, 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.

Davis stated in relation to those that I just read you, we have done a tax increment financing (TIF) district, which we used to help Aggressive Hydraulics with some gap financing. This was what's called a pay-as-you-go TIF note. So, in other words, the developer actually paid for this up front but they borrowed the money from a bank. What we've done, we've pledged that the tax increment, the difference between the tax on the property before development and after development, then goes back to the bank to pay off this, which minimizes their risk.

Davis explained the other way would be to issue a bond and then use the tax increment to make the bond payments. This is a little more risky. We've done one tax increment financing project and we do have a Tax Increment Financing District set up all along the Highway 65 corridor. So, this is something we can offer if the right conditions are met. One other form is tax abatement, which is very similar to the TIF except what it does is postpones the increase in

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taxes until a development is paid off. In other words, if somebody comes in and wants to put, say another manufacturing facility and they need a street extension by the City and the City wants to use tax abatement to pay for it, then what we would do is issue a bond and then use the difference in the increment to pay off that bonding amount or whatever sources of funds were used to fund the road.

Davis explained the problem with TIF and tax abatement is they both have to be approved by the County and the School District because neither one of those entities gets that increase in until these projects are paid off. So, sometimes that can be a little challenging. In our cause with Aggressive Hydraulics, it wasn't really an issue because the amount of it was fairly low. In terms of these, it was \$200,000. Some cities, especially a couple to our north and south, actually own public lands and public buildings, which they sell at below market rates. A good example is the City of Isanti and the City of Cambridge who have marketed property for \$1 an acre to attract businesses and industries.

Davis stated with subsidies, a good example of that is our new SAC rate beginning in January will be \$3,180 for the Met Council. Blaine's same SAC rate is \$2,480. So, let's say we had a company come in here that will have to pay 100 SAC units and they say, 'Well, we can go to Blaine and save \$70,000 just on SAC rates.' The City may, at some point, want to consider, say, 'Maybe we'll subsidize the difference in that.' Where would we get the money? Hopefully we could build up some surplus in our Water and Sewer Funds to look at this. But, that's just an example of what we might need to consider.

Davis stated some other things I mentioned were modification or deferment of City fees. There may be, for a huge building, permit fees could be maybe \$50,000. Maybe we modify those or maybe there's some other fees that we could defer and stretch out over a period to be paid.

Davis stated another example is participation in the extension of infrastructure. I think we discussed once that there may be interest in extending the water and sewer on the east side, about 300 feet south. The person that was interested in this extension only needed the minimum size water and sewer line, which would have been an 8-inch sewer and 6-inch water. However, due to our plans to extend farther south, this would have to really be a 24-inch sewer and a 16-inch water. So the City, in that instance, may want to even consider paying the difference in the up charge to help get that off the ground.

Davis stated these are just a few of the things that we could consider but I guess my primary purpose in pointing these out is to see if there's any of them you are uncomfortable with and if there's any we need to get you more information on or explore. Because, I'm hoping these issues come up sooner rather than later. I just want everybody to kind of be familiar with them and comfortable with them so when we start talking about them, we'll all be on the 'same page.'

Voss stated before we start discussion, I think I heard you say that the TIF District we established is for the entire 65 corridor. I thought it was just the Phase 1. Davis stated the entire corridor. Voss asked the whole eight mile corridor? Davis replied yes. Let me double check on that but it was my opinion it was the entire corridor.

Mundle stated that's what I seem to recall too. Voss asked the whole corridor? Mundle stated the whole corridor because that was the purpose of doing it once along the entire thing so it doesn't have to be done again. Voss stated I remember when we had the discussion at Council, we did a Phase 1 because that's what made sense. And maybe we did expand it. I just don't recall.

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as part of some follow up discussions, if you feel it's necessary, we may want to set some minimum standards.

Voss stated the one thing of all the options you went through, I guess the one that gave me any 'heartache' was fees. Only because it seems like if we use fees as one of the tools, it's almost irregardless of whether it's in a sewer district or not. If you gave one person a reduction of fees, someone's doing a 100-acre residential development on the east side, not even close to our sewer district, 'Well, I want a reduction in my fees too to get this done.' You know. How do you say 'yes' to one and 'no' to the other on fees?

Davis stated that's why you have to have certain standards. You wouldn't qualify for this unless you meet these requirements To use an extreme example, let's assume we have an industry coming in and they're going to bring in 500 jobs. Perhaps let's say we subsidize some of their SAC rates and modify their building permit costs and with this benefit to the City to encourage their decision to locate and they would have to pay \$100,000 less. That puts us on equal footing with other Cities. Assume that the 500 jobs pay \$25 an hour and they're a reputable company, they're going to add 'X' amount of dollars to our economy, things we can validate to justify those reduction of fees. Your point is well taken, though. We have to be very careful. Even with the thing like subsidies for SAC fees, I can see that people who have already paid their SAC fees are going to say, 'Well, where's my subsidy?' Well, the difference is the people that paid their initial Met Council fees paid \$2,600. So, we wouldn't be too far off in that respect. But, we have to set certain standards to consider these. You may not use them all. You may not want to use them all. But, I think there has to be certain criteria that somebody who comes in has to meet before we could even consider this.

Ronning stated I think I heard you say about tax abatement is you postpone the taxes until the facility or whatever is paid. That's about the time they're ready to move. Davis stated and here again, that's why you have to be very, very careful with a lot of these situations. Especially with industrial recruitment because a lot of them will relocate sooner than commercial businesses. Their goals may be to stay in some place for eight or ten years and they get to a certain place in their wage market and then they start looking somewhere else or some other entity may offer them a better deal.

Voss stated I know the west side of 169 in Elk River, all that development happened in the last 20 years. Menards and everything up and down that line. That was, I'm not sure if it was completely, but I was told a lot of it was tax abatement through the city. And, that's what the residents concerns then were. I think it was a seven-year abatement. That area's done nothing but thrive, 20 years later. But it wasn't industry either.

Davis stated with the tax abatement though, they still pay taxes but they just pay taxes on the rate prior to development. Voss stated right, not the new development. Davis agreed, not the new development. And then that increment is used to pay it off costs of improvement.

Davis stated none of this is non-controversial. And, if you're already here, I can see the argument for, 'They got help but I didn't get help.' So, that's why we would have to have some basis for making a judgment on some of these requests.

Voss stated it's like when they change our vacation policy the year after I finally acquired three weeks. I could have gotten three weeks five years ago. Guess what, I didn't get my five weeks vacation I wanted. The rules change and, you know, there's going to be a time, I think, in the best of all worlds you wouldn't have to do any of these things. Businesses would just come in. So, there may be a time when we don't need to do these for folks. It's a tool.

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Davis stated I included a sample of a business assistance policy. I'm not advocating that we develop one of those now. I think if we do anything, it should be something much simpler. We'd look at these on a case-by-case basis because things change, needs change. If somebody comes in and says, 'I'm going to bring three jobs in and I need half a million dollars for you to build a road to my property.' Well, I think we're not going to look at that in the same terms as a prospect that comes in and says, 'I'm going to bring 300 jobs in.' Or, 'We're going to locate a Fleet Farm, or a Lowes, or a Menards in and need a half a million dollar road.' Those would be instances that would trigger the consideration for incentives.

Voss stated I think the discussion at the EDA was just for the City to be able to show we have these tools and we're willing to consider them. I don't think at this point in time we have to go through all the ins and outs of what works and doesn't work because we'll be able to do that when that time comes.

Mundle stated we weren't really sure of what would be applied where for what industries. So, to set up standards it might have been a little bit difficult. It was more of, kind of harder to be proactive on it, might have to be a little more reactionary.

Ronning stated like he said, if you bring in the jobs, a bigger 'anchor' than if somebody just brings a bunch of roofers and nail bangers.

Mundle agreed and stated ultimately we want to show that we are absolutely business friendly and we have these tools that can be applied so come talk with us.

Voss stated for Colleen or whoever else is talking to these developers, is to be able to say that EDA and Council, on consensus, is willing to use some of these tools should they be needed. As opposed to the message of not being ready or having these or even having discussed them.

Ronning stated and still be mindful without being discouraging that if somebody brings a Starbucks that's jobs but it doesn't count. Voss stated yes, and it's what Jack's talking about with having the 'but for' test and what kind of impact they're really going to have.

Davis stated that's a crucial test and a lot of these things would happen even if we don't participate. The 'but for' test, I think, if we want to keep things as simple as possible, you apply that one and you say, 'If not, but for, our assistance would they be here? Or, would they not be here?' Like you say, with a Starbucks, they're going to come when there's a market. It doesn't matter what we do. They're still not going to come until their numbers are reached.

Davis stated I just wanted to bring these things up and briefly go over some of them and see if anybody has any issues with anything. At this point, I think we need to just keep in mind that these are things we have and can possibly bring up. Hopefully we don't need to but they're there and maybe they'll be brought back to you again at some point in the near future.

Voss asked what, as a staff, you're looking at creating a document? Davis stated no, the only thing that I'd like to work on as the staff, and maybe have it discussed first at the EDA, is just here are some basic requirements that we'd like to see if we're going to consider this. I really don't want to get too specific on that because sometimes that locks you in and reduces our flexibility to react to a situation. You need a certain degree of flexibility on some of these issues. The only thing that a document or policy does is provides you some consistency in the administration of the standards. Case-by-case basis, sometimes depending on who the evaluators are, and they can change, but I think we need to start looking at something that's going to basically be outlined as some criteria. I'd just like to start working on this at the staff level at this point and come back at a later date and discuss it and get input and feedback on it.

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Ronning stated for my own purpose, abatement and subsidies are scary things. I don't know if anybody else shares that sort of an opinion. The other ones, they seem like they're workable. Davis stated that it all depends on what you're going after and who you're dealing with.

Voss asked any other feedback for Jack? Ronning asked could you repeat what we've discussed? Davis stated we'll continue to work on this and try to get a few things more refined and see if we can come up with some kind of policy that says 'keep it simple,' but 'keep it effective'. But, I think that should be the goal. We don't want any complicated formulas. At this point we just need some basic goals to look for and have that out there to see what we want to do in case the situation arises that we have to consider it.

Voss asked isn't the program we had for Sauter's Park, that fit into business assistance. So, that was one tool we used and not saying we couldn't use it in the future either.

Ronning stated if some of this is 'testing the water,' I'd support these things. I'm interested. Voss stated when it comes down to it, whatever we say now, whatever applicant comes in for one of these things, that's how we're going to assess it. On a case-by-case basis.

Ronning stated but you want to know how much interest there is, it appears. Davis stated I just wanted to know if anyone had any real problems or issues with any of these things. Here again, like you say, we'd apply on a case-by-case basis whether it's 3 jobs, 500 jobs, \$20 million commercial investment versus a \$20,000. Voss added or sit around for 20 years or 2 months.

Ronning stated with the service thing, like the guy mentioned Starbucks, if this 'king' did come in with a market, that could bring 100 jobs in without too much. That would be another consideration so 'cross that bridge' when we get there.

Davis stated all right. Again, I just wanted to go over some of this stuff so we could at least get a little discussion in on it now and then we'll work towards seeing if we can come up with something that's a little more definitive. I want to do something that leaves a lot of flexibility in this whole issue.

**5.0
Donation
Policy**

Davis presented the staff report, indicating 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 persons, 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 League of Minnesota Cities' memo.

5.0 While donations are not considered a lawful public expenditure, there could be differing ways

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to approach these types of requests. From a City perspective though, this 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
- Conduct community service activities that are fund generators
- Develop a sponsorship program
- Consider registering with the Department of Alcohol and Gambling Enforcement to become eligible to receive charitable gambling proceeds
- Determine if a 501C3 designation, as opposed to the current legal status, is needed for donations to be IRS recognized as tax deductible.

As a result of this request and others the City has 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 amount the donation sought
- Documented efforts to secure other donations
- Justification of the broad based community benefits that would be provided by the donation
- Term of the request (1 year, continuing)
- Other standards as needed

Davis stated as a result of this, Mayor Voss asked that we start looking into the way we approach receipt of our City gambling proceeds. The gambling proceeds can be used for a number of functions that aren't tax payer dollars. There's two methods the City can receive gambling proceeds from the permit holders. They can issue a gambling tax, which is 3% of the net profits. The 3% monies can only be used for funds to monitor, enforce City codes as it relates to lawful gambling. This is currently what we do now. It was established by Ordinance in 2006. And, last year we received about \$22,000. Of that \$22,000, this was dedicated to pay for part of the Sheriff's contract. Our justification for this is it's for their use for monitoring the sites that do lawful gambling.

Davis stated the other way that the City could receive the gambling proceeds is again through Ordinance and we would have to redact the 3% tax and pass an Ordinance where we would receive a 10% contribution from all the people that conduct charitable gambling. In the City we currently have Ham Lake Lions, Andover Huskies, Chops, and the East Bethel Community Center. The 10% is the limit by Statute. There's about 25 items; however, when you take a look at it, it's really broad based. There's a lot you can do with the money. If we did that, though, we would probably lose some of the other contributions we get from some of these other organizations and the 3% that we currently collect. We could probably generate a little bit more revenue if we went the 10% route and we would have more flexibility in how we decided to expend it.

Voss stated 10% is the max though. Davis agreed stating 10% is the max, correct. Voss stated it could be set lower. Davis agreed. Voss stated just for 'kicks' on this subject, if we went away from the 3% tax and went to a 3% contribution, the net effect on the gambling organizations should be nil but it would then give the City more flexibility on how those funds can be utilized.

Ronning stated 3% of everything is pretty good compared to 3% of the net. Voss asked the 10%, is that of the gross or net? Davis answered net. Voss stated so it would still be on the net. Ronning stated okay. Voss stated under that scenario, if we went 3% contribution the net effect on the Lions and Andover Huskies is zero. But we would have more flexibility. Davis stated yes, we would have more flexibility in how we expended the funds.

Ronning asked what do we have now. Davis stated answered \$22,000. Ronning asked what's the means? How do we get it? Davis explained we get it monthly. Each of those organizations that conducts charitable gambling sends a report in monthly to us and sends a check in based on the proceeds that they took in for that month. To date, for 2015, we've taken in about \$16,000 through the end of September.

Ronning asked what's the percent regarding that. What's the multiplier? Voss asked the 3%? The \$22,000 is 3%. Davis stated if you divided .03 into \$22,000 you'd get what their total net is. Voss stated \$600,000 some. Ronning stated your discussions are kind of just changing the name of the 3%.

Voss stated the scenario is, obviously with the 10%, like Jack's saying, some of these organizations won't be happy. But, if we kept it at 3% and just changed the method but kept it at 3%, what I'm trying to understand is to make sure there's no effect on the gambling organization. Ronning stated yes, in whatever terminology to make the funds more usable. Voss stated right, and that's what Jack's saying.

Davis explained the State Statute says that the Minnesota Gambling Control Board, all organizations licensed and registered shall be required to contribute 10% of their net profits derived from lawful gambling. Voss noted it doesn't say 'up to' it says 10%. Davis stated that does but this isn't State Statute this is what's in Ham Lake's ordinance. Voss stated okay.

Davis stated 7-1280 is in the Ham Lake's ordinance. If we read down through here, it says that you can do up to 10%. In Ham Lake's ordinance they're charging 10% as a contribution. So, you've got the 10% contribution or the 3% tax.

Ronning asked 10% contribution and 3%? Davis stated no, you can't do them both. We looked at that too but we got a report from the Gambling Control Board today that says it's either or. Ronning stated yeah, it's kind of double dipping. Davis stated we have to do one or the other.

Voss stated State Statute does say 10%. It doesn't say 'up to.' So, that's just a question I asked is whether we're bound by the 10%. Let's set that aside because the broader questions is, does the City get involved with making donations. Whether it's gambling proceeds or not, they're still tax dollars and that's where it gets a little 'dicey.' The reason I asked Jack about how we spend charitable donations to the City is that's not money that's directly derived from taxpayers. It's people throwing their money away, that's their own choice. It's not direct taxpayer so for me, I would feel better if we had discretionary spending of that rather than something off the tax levy. Whatever we thought was a worthy function or not.

Ronning stated it just popped into my head, if you're thinking legitimate expense, some requests, these young ladies were in for their request. What would stop anybody from coming in and saying we're having a fundraiser for so-and-so who's on their deathbed. How do you say 'no' to that? Mundle stated there would actually have to be guidelines. Voss stated yeah, guidelines and I can see having, because it's kind of how we do it at the office, we have a certain allotment per year. People put in requests and there's a committee that reviews the requests and that's how we divvy out the money and they decide. Something like that could

happen here too.

Davis stated there are a couple organizations that we do provide money to. The Alexander House; however, that's looked at as a fee for service because we do get something in return for that. They do issue a report every year to us that shows how many East Bethel residents they served. This group that came in before us back in September, Stepping Stone, that represented the homeless shelter, if we look at that, that's another one that would probably be considered a fee for service.

Voss stated to use those two programs, Alexander House is one we have been funding for quite a while. If we switched our mechanism of funding those, to be shifted from the charitable gambling proceeds, to me that in itself is setting a 'bar' of here is a donation we're making to an entity that we can measure and get some metrics back on how it benefits the City. Rather than you're, the bar contributions you see all the time, those kind of fundraisers are more individuals. That's where I see the risk, the individuals coming forward and our having to say 'no' so someone like that. It's tough.

Davis stated we give the Lion's Club \$12,000 a year but in return, they run the Recycle Center for us. Those are things that we definitely get a service from that we can measure results and show broad-based community benefits.

Koller asked with the Royalty, who owns the float? Davis stated the Royalty owns the float. Voss stated yes, they're registered, right? Davis stated Doug was going to provide me with their legal status and they're not a 501c3 but he said they are registered with the State. But he wasn't sure exactly how that registration was. They do have some legal status but it's not a 501c3. One of the things about a 501c3 is when you go out to do fundraising or things like that, if you make a donation to them, generally all those are tax exempt and they meet the IRS test. If you have some type of other legal status, you may make a donation to them but your donations may not be recognized as tax exempt.

Ronning stated oddly enough, that 501c3, the NFL fit that until earlier that year. They've been non-profit for decades. Voss stated they don't make any profit, do they. Ronning stated well, they're not in it for the money. Voss stated they get public funding for stadiums. Ronning stated and they're not in it for the money, it's for the good will. Voss stated for the sport of it. Ronning stated the good will of stealing stadiums.

Ronning asked where we are with this. Davis stated I'm just wondering if we need to come up with some type of policy that relates to donations. This won't be the last one that we receive and here again, it's good to have some guidelines that say, 'Here's what we consider before we make a donation.' Or, 'All of our donation funds are going to come out of our charitable gambling proceeds or money we receive from other donations. They won't come from tax dollars.'

Voss stated right, the City gets donations throughout the year. Davis stated generally when we get a donation, it's earmarked. But, you know, there may be times where somebody is going to say, 'I'm going to give the City 'X' amount of dollars.' If we did that, we could put that into a fund that could be utilized for that.

Mundle stated I think the first step then would be to see if it's 10% or up to 10%. See if that can be changed because that would be the first, to see if we can actually use those funds. Then if we want to change that, then we would have to come up with guidelines for it. Possibly the donation amounts, how much per organization, and possibly an advisory group for donations, whether we'd want to create something new or if one of our existing committees, if it would fit

into one of their roles to administer that.

Davis stated different cities look at it differently. I spoke with the City of Cambridge and they said generally they don't make donations but if they do consider anything, it had to be related to marketing, tourism, or economic development. To me, the first two are part of the last one.

Voss stated the Royalty is marketing. Davis stated it is and my only question there, and I hope anybody listening to this does not get me wrong because I think they're a great organization and they do a great job for the City; they only market to other cities. I don't think they market to the audience we're trying to achieve. And, there is value in that though. You can make a case for it. Voss stated it is soft marketing, that's what it is. It's just getting your name out on something. You're not going after anyone specific. It's just getting your name out there.

Ronning asked would what you're looking for be defined as criteria and number one, would it have to be something that can be shown to benefit the City and population with those three things you mentioned? But, not limited to? Davis stated by State law, and I've talked with Mark on a couple things on this, he said you know, there's ways you can do it if you can show that it does generate 'broad-based community benefit.' Like you say, the criteria. If we give \$5,000 to this organization, really what are we going to get in return and how does it benefit the City.

Voss stated it's like years ago. We made a donation to the Boy Scouts for creating the sign in the south part of the City. So, there's obviously a direct benefit of it so the City made the donation, which was basically the material costs.

Ronning stated the beginning qualifier of the criteria, before it would be that the requesting party has to justify it. We don't have to come up with a reason for it.

Voss asked the Council, on that 10% thing, if by law should be stuck with taking a 10% contribution from the gambling organizations, do we have any interest in doing that? Koller stated I, myself, would be against it. Mundle asked would that be then taking, say if we take in, instead of \$22,000 we'd be taking in \$70,000? Davis stated yes, roughly \$70,000. Mundle stated around that number.

Davis stated probably we'd have to deduct what other contributions they're making to us now. They'd probably stop that. But, I haven't checked. I don't think the Ham Lake Lions have donated anything specifically to the City of East Bethel. It says in our Ordinance that these funds have to be spent within our market area. Our market area is the City of East Bethel and every city that we border so that includes Andover, Ham Lake, and Oak Grove.

Voss stated I find that surprising. Andover Huskies has a gambling license here. Davis stated they're in our market area. Voss stated they don't touch East Bethel. Davis stated yes, on the very southwest corner. Oak Grove and East Bethel, it's our version of Four Corners. Ronning stated if I knew that, we'd have something else to claim instead of putting a sign on 35.

Voss stated so basically, what it will do to these gambling organizations, it will dilute what they expend in the target area. Davis stated it would dilute some of that. Now, we can get what some of the expenditures were. Chops is the one that primarily gives us a donation annually for the Movie in the Park and the Kiddie Parade. They give us about \$1,000 each year.

Ronning asked what is Chops? Davis stated it's the drum corp. Koller stated they were behind us in the parade. Davis stated out of St. Paul. Ronning stated oh yes, the brass band. They're Chops?

Davis stated Ham Lake Lion's, to my knowledge, they have not contributed anything directly to the City. Now, they do spend their proceeds within our market area. The Andover Huskies, I think on occasion we've asked them for a donation. It wasn't much and I think they did come forward with it. But I don't think they do that on a voluntary basis. They do spend their funds in our market area.

Voss asked who's in Route 65? Davis stated Andover Youth Hockey. Voss stated Blaine Hockey used to be in there years ago. Davis stated Blaine's not one of our permittees now. The other one is the Coon Lake Beach Community Center. Essentially, they use most of their funds to support their activities. Voss stated that's the one I'd hate to take it from, the 10%.

Voss stated it seems like we're all in general agreement of wanting the ability to make some of these donations. Mundle stated yes but not at the huge cost. I just think it would be nice if we could do some donations here and there. Like for instance to the Royalty but if it's going to stir up everything just for the ability to make some donations, I'd rather just leave it as is. Ronning stated it's a real 'Pandora's Box.'

Voss stated I think EDA as a whole is more supportive of doing something like this from a business development standpoint. Maybe, perhaps, that's where it should be. Maybe they should administer it then. So, I think if we have the litmus test of showing what it does for the community. It's not always going to be tangible. That's kind of the tough thing. I think that would stay away from the general fundraising-type activities. But, never say never.

Koller stated it is marketing for the City. Ronning stated I'm on your 'horse' that 10% would be, if we've been doing 3% for how many years or decades. Davis stated since 2006. We changed in 2006 and went to the 3%. Koller stated I really wouldn't want to make a jump up to 10%. Ronning stated 4% or 5% is something different but 10% is a lot.

Davis stated we'll check the State Statutes and see if there's any latitude and if you can do less than 10%. Mundle stated that works for me.

Voss stated I'm just trying to think back to 2006. I know there was something that happened and that's why we changed the Ordinance. Because, we spent a lot of time on the Gambling Ordinance back in 2006. I think organizations were under reporting to us and there was all kinds of things.

Davis stated that was about the time, too, when there were a lot of issues with some of these people that were doing the charitable gambling. They had a lot of issues with reporting. There were several of them that were getting in trouble and some of the other youth sports organizations. This may have been a way to separate ourselves from that. This letter here says, 'The revised Ordinance simplifies the computations of amounts owed to the City. All organizations will pay a 3% gambling tax on receipts, less prizes paid out for each site.' So, it doesn't mention the fact that there were some issues back about that time with those but I'd say this may be one of the things that precipitated that.

Voss stated here's my suggestion on the 10% thing. Ask the question and see if we can do less than 10%. If we can't, in the meantime before we discuss this again, can someone have a discussion with one or two of these organizations and just ask them how they would feel about it? Davis stated we'll contact all of them. I think we should contact all of them before we do anything.

5.0 Voss stated first find out whether we can go lower than 10%. If we're stuck with 10% I

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wouldn't contact them. They work in other communities and maybe other communities do the 10%. Either way, the organization has to spend the money in the area. I think we can smooth over the lines on that too. Davis stated Ham Lake does the 10%. Oak Grove does 10% but they said their amount that they receive is minimal.

Voss stated I thought Ham Lake did the 3%. Davis stated no, they do 10%. Voss asked do they dedicate it all to the Sheriff's contract then? Davis stated they dedicate a portion to the Sheriff's contract and then they allocate the rest depending on what the requests are and how they comply with the guidelines.

Voss stated they have SRO. Davis stated they're also going to be on a TV show pretty soon. Ronning stated when that place first opened they were gangbusters for the first five years. Voss stated just ask the Sheriff's Department, they were there a lot of the time.

Voss asked anything else on this? Davis stated I'll check on those things and report back and then we can see if we want to continue this discussion.

6.0
Video
Indexing of
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Davis stated he wanted to give a presentation of something that's a nice feature to have. Several of our cities have something called Video Indexing of their council meetings whereby their agendas are displayed side-by-side with the replay screen. And instead of scrolling to whatever you want to try to find, you can actually click on the agenda item and it will take you directly to that. If you're like me, trying to scroll to find some of these things can be a little time consuming but more than that, it's frustrating because trying to get it right where it starts you usually end up watching the last minute of whatever was presented last.

Davis stated we've looked at three different services. The City of Roseville uses CTV, which is backed by Roseville that is their IT provider, which is really the one that's the least expensive and we have more support on. There's one called Leightronix and another called Granicus. Fridley uses Leightronix and Oak Grove uses Granicus. This one for Roseville, just take for an example, if you want to watch the replay of the last of October City Council meeting. *Davis provide a demonstration of how to use Roseville's video indexing.*

Voss stated you've got to go to the video screen, right there, click on that volume. There you go. Well, we don't need volume. Davis stated okay, so you'll have agendas of meetings on one side of the page, here's the video display of the meeting. If you want to go to a specific item on the agenda on this one, you'll scroll down to Public Hearings and that will take you directly to where that starts. Anyway, this is just a brief example of what you can do with this. I don't know how many of you actually go back and look at the video for some stuff. I use it quite frequently. I don't know how many of our residents do, so this is a fairly nice feature.

Davis stated the cost on this is about \$150 a month. There's a \$30 piece of software and then it's about \$150 a month for the storage capacity and for them to host this. Voss asked who creates the indexing? Davis stated we would create the indexing and Jackie said it would take about 20 minutes to do it for each meeting.

Voss asked can you show the Fridley one? What I didn't like about this one was with the index, you had to get off the video to get to the index. The Fridley one was on the same page. I think it was Fridley. Either one, show them both. I think the Oak Grove one was on the same page. *Davis provided a demonstration of how to use Fridley's indexing program.*

Davis stated let's just say you want to go to the Open Forum, you just click on that. Voss stated it's basically links. Davis asked do you want to check out the Oak Grove one? Voss answered in the affirmative.

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Voss stated I like that one. Harrington stated having everything on one page like that, it's kind of nice. Voss stated Oak Grove's that way too but the graphics aren't as good. Harrington stated with Fridley you had to go back. I kind of like everything on one. And, you said \$150 a month? Davis stated yes.

Ronning asked what's the cost for if Jackie can do it in 20 minutes? Davis explained she has to index it and then we send it in. That just formats the agenda to the video. Actually, they just host and provide it so it's for the storage. Ronning asked does the place that does the minutes do this sort of thing? Davis stated they probably do but I'd say we could probably do it a whole lot cheaper than they can.

Mundle asked do they actually host the videos? Davis answered in the affirmative. Mundle asked right now with our website, we can only have so much video on there, can't we? Davis stated one of the things that we're looking at we might be able to do. What we're hoping we can do is remove some of the storage that we're paying for on there that we use to store this stuff. If we could, we could save maybe \$100 a month or something.

Mundle stated it wouldn't be huge but would off set. He asked would the storage capacity of another site hosting all of these be greater than our current cost of hosting? Could we offer more videos on our website versus what Civic Plus has? Davis stated it's possible. CTV is the Roseville site, which they have huge storage capacities. I'm sure that all of these probably do too. *Davis provided a demonstration of how to use Oak Grove's indexing program.*

Davis stated this is the most expensive one. Voss asked Oak Grove is doing something that's the most expensive? Davis stated yes at least based on the cost we received. Davis stated the one for Oak Grove, there's a one-time purchase cost for an encoder of \$2,500 to \$4,900 and monthly costs range from \$300 to \$600. The one you saw for Fridley is \$199 a month.

Voss stated so \$200 a month. This one has the actual documents. I was wrong. I thought that was keyed in but it's not. Davis stated you can scroll down. Voss stated you can scroll inside there. The bar on the ends, to the right. You can scroll that. Mundle asked that's just the agenda? Voss stated that's just the agenda. Mundle stated that's the same thing as opening it up two windows. Voss stated yes. I like the Fridley one because you can jump to the, the key's right there on the page.

Davis stated the only reason that I like the CTV one is because it keeps everything integrated with the same support system we have. I'd like to check with them to see if it's possible to modify that page to reflect more of what the Fridley one represented. I'm just checking to see if there's any interest in pursuing this. I think it's a useful feature.

Davis stated one other thing. We now have the equipment capabilities to live stream our City Council meetings. The cost on that is about \$150 a month. Voss stated I thought we had been live streaming. Davis stated only on Channel 10. Voss stated oh, we don't need to live stream it. People can download it at any time. If they want to see it live, we have 48 seats out there.

Koller asked do we have any idea how many people actually watch our videos? Davis stated we could go back and see how many hits we get on this. Actually, there's a counter on these. It depends on the meeting. Voss stated there's over 100. Davis stated there were some meetings back in 2014 that had, I think one of them had upwards of 1,500 hits. Voss stated yes, there were a couple big meetings.

we had for the Planning Commission and for the City Council. Voss stated I'm surprised there's that many. I really am. Davis stated generally it will average 100-200 a meeting. Voss stated that's a lot. Koller agreed stating it is. Ronning stated that's good. Mundle stated considering our meetings are boring.

Harrington stated I agree with Steve. I like that Fridley one. Voss stated and it had nice video. Harrington stated you don't need all this like Oak Grove's got. You don't need all that on there. Koller asked can you put that Fridley one back up? *Davis again provided a demonstration of Fridley's indexing program.*

Mundle stated I was also noticing on the bottom of the, can you see the dots along there? Do those go right to...? Voss stated click on one of those dots Jack. I bet it goes right to the agenda item. Ronning stated oh, sure. Mundle stated so it shows you how much time was spent. Voss stated that's kind of neat. Ronning stated click a different topic and see if it goes to the next dot. Yep. Davis stated they just have their things categorized, difference in how they've indexed them. If you're looking for stuff on the replay, this is really handy to have.

Koller stated I like this one. Harrington stated yeah. Mundle stated it's not complicated. Voss stated yes, and the screen's bigger than what we have right now on line.

Mundle stated I would be interested in doing this, especially if we can offset the cost from taking some storage space off Civic Plus and applying that savings towards this. Davis stated we can certainly come back and give you an update on that and see what we can do with Civic Plus. We approached Civic Plus and they're looking into seeing what we can do about modifying that and if we don't require as much storage space.

Ronning stated the numbers tell you almost whatever story you want to come up with. If this was allocated to the population, it would be approximately 1.3 cents per person a month.

Voss stated I think it makes sense to do it because if the residents want to see a certain item, they don't have to page through. Of those 100, some people that use it every month. I'm sure they'll like it. Harrington stated I agree. Ronning stated and it would probably grow.

Davis stated we're currently paying Civic Plus \$1,000 for video storage a year. Voss stated and this is \$2,400 a year. Davis stated yes, this would be about \$2,400. Mundle stated if we could apply the \$1,000 towards that and if this service will host a larger space, more video.

Voss asked is that just meeting video and nothing else? Davis stated it's 3 per month on CTV. Voss asked do we have any other links on the website to have video. Davis stated we have the Planning Commission and could consider possibly doing them for select meetings. Voss stated whatever meetings we do should have this. On our website, for what we pay for the video storage, does that also include non-meeting things like informational videos that we have on there? Davis stated no, we don't have any. Let me take that back and double check these videos we have for meetings indexing.

Voss stated I like Brian's idea if we can offset the cost. Mundle stated yeah, and if it offers more of a storage capacity for more. Voss stated and a better quality video.

Ronning asked what's the point in time? What's the past and from there forward? Or would there be any historical? Voss asked are you talking about archive meetings on this? Ronning stated yeah. Voss stated I don't think we want to go back and have Jackie index everything. Davis stated no.

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Voss stated we'd still have them available somehow. Davis stated they'd still be available but if we chose to go this route, whenever we started the service, that's when it would begin. I don't think we'd try to go back. Voss stated that would be a question I'd ask. Can we archive our old ones with whatever new service it is? Ronning stated if that's an option. Voss stated because we definitely want those available.

Backup Generator Update

Harrington stated I talked with Jack earlier. Jack, the generator, is the City going to do anything with the generator? At one time, we were going to get one. Davis stated Nate's been working on those processes and had some difficulties with a couple of contractors quoting. We are scheduled now to hopefully have something on the November 18th meeting. Harrington stated I think there should be a generator here. Everything's at the City anyhow.

Voss stated I thought we decided that a long time ago. Harrington stated they were but then they got a used one that they couldn't hook up or there was a power issue or something.

Davis explained we got the used one from the DNR but it was an older surplus model that was going to be very difficult to adapt. It didn't have an automatic starter on it and the cost to retrofit it was going to be more expensive, probably than maybe getting a new one. It was a diesel. What's been recommended to us was that we get a gas-powered generator with a propane backup. So if the gas goes out, there's a special orifice that can automatically convert to propane. Then you don't have to worry about fuel going bad or having to start the thing every so often to make sure the fuel doesn't go bad, run it an hour a week. They say it's more dependable and a lot better and you don't have that fuel issue.

7.0 Adjourn

Harrington stated I'll make a motion to adjourn. Mundle stated I'll second. Voss stated any discussion? All in favor say aye?" **All in favor.** Voss stated opposed? Hearing none motion passes. **Motion passes unanimously.**

Meeting adjourned at 8:26 p.m.

Submitted by:
Carla Wirth

TimeSaver Off Site Secretarial, Inc.