

EAST BETHEL CITY COUNCIL MEETING

May 16, 2012

The East Bethel City Council met on May 16, 2012 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Richard Lawrence
 Heidi Moegerle Steve Voss

MEMBERS EXCUSED: Bill Boyer

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

Call to Order **The May 16, 2012 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the May 16, 2012 City Council agenda.** Moegerle asked to add 10.C GRE Litigation settlement discussion. Voss said he is fine with the amendment. **DeRoche seconded; all in favor, motion carries.**

Public Hearing - Classic Construction 2nd Addition, Lot 1, Block 1 and Outlot A, Drainage and Utility Easement Vacation Davis explained that Classic Commercial Park was platted in 2006. At that time, the plat was approved with a regional stormwater pond in the northeast corner of Outlot A as shown on Attachment 1. The developer has made an application to replat the Classic Commercial Park as Classic Commercial Park 2nd Addition. As part of the replatting process, the developer will create two new lots (Lot 2, Block 1 and Lot 1, Block 2). The developer is also requesting to relocate the regional stormwater pond between Lot 2, Block 1 and Outlot A as shown on the Preliminary Plat of Classic Commercial Park 2nd Addition, which is included in your attachments.

If the plat of Classic Commercial Park 2nd Addition is approved, portions of the drainage and utility easements from the original plat of Classic Commercial Park should be vacated. The proposed drainage and utility easements that would be vacated are shown on the Preliminary Plat of Classic Commercial Park 2nd Addition (Attachment 2). As part of the vacation process, state statutes require a public hearing. A public hearing notice has been published in the Anoka County Union and adjacent landowners have been notified of the hearing by mail.

Staff recommends that Council conduct the public hearing and receive public comment as required by state statutes for the vacation of Drainage and Utility Easements on Lot 1 Block 1 and Outlot A, Classic Commercial Park and approve the vacation of easements as described.

There were no public comments.

Moegerle made a motion to close the public hearing. Voss seconded; all in favor, motion carries.

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

Fatal Accident: On April 17th on Viking Boulevard and Breezy Point Drive there was a

fatal crash involving a bicyclist and a motor vehicle. This crash occurred at 7:27 p.m. The bicyclist was transported via Aircare to Regions Hospital where he succumbed to his injuries. The driver advised he was not able to avoid the bike as he did not see it until it was too late. The crash is currently under investigation by Anoka County Criminal Investigation Division and the Minnesota State Patrol.

DWI Arrests: There were two DWI arrests for the month of April. One involved calls of an intoxicated driver at 7:23 a.m. The driver was stopped and failed field sobriety tests. The driver stated he had his last alcoholic drink at 10:30 p.m. the night before. The driver tested at a .19.

Burglaries: There were six burglaries reported. One involved an attached garage which was missing items. One involved a bicycle being taken from a pole barn after having last been seen in November. One burglary of a home also involved a theft of vehicle from the residence. The vehicle was later recovered, abandoned at an apartment complex in Brooklyn Park. The vehicle was processed for evidence and the case is under investigation. One burglary involved the theft of copper wire from a building. Entry was made by kicking in the door.

Property Damage: There were eleven reports of damage to property in April. Several of them occurred as a result of breaking into vehicles by shattering windows to gain access to contents inside of them. There were three reports involving an area just to the north west of City Hall during an overnight time frame.

Thefts: There were five reports of thefts from vehicles parked in driveways overnight. There were three theft reports involving items being taken from yards. There was a theft of a boat, which was recovered across the lake. This is believed to be related to a male suspect who fled on foot from an assault situation, prior to deputies arriving. The boat was processed by the Anoka County Crime Scene Unit and the case is under investigation. There was a theft report of a tandem car hauler trailer, which was returned three weeks later by an unknown party. There were two reports involving thefts of a canoe. One report was unfounded as the canoe was located after having floated away. One report involved a male finding his stolen canoe at a residence. The resident reported having purchased the canoe from a male off of Craig's List. He did not have any suspect information. The canoe was returned to the rightful owner. One theft report involved someone stealing a victim's identity and filing a false tax return.

Also, we want to issue a reminder that May Mobilization Seat Belt Enforcement Month is going to begin on May 21st and run through June 2nd. So make sure you buckle yourself up and have your children in their car or booster seats until they are 4'9" tall or weigh 80 lbs.

DeRoche, "Under the misdemeanor arrests, were all of them under one situation?" Lt. Orlando,

"Twenty-nine of the forty were. There was a juvenile party; the deputies had a received call of a noise complaint. They went to the residence and knocked at the door and somebody said, "It's the cops" and all the doors and the windows got shut. The deputies were then able to track down the juvenile's female mother (who lived at another location, this was the father's home, and the father was out of town and did not know a party was going on.) The father gave the deputies permission to go in and clear out the house. The deputies went and cleared the house and issued a bunch of citations."

Moegerle, "I read that the individual that ran from the stolen car and hid in the basement was finally sentenced. That was an interesting story to read." Lt. Orlando, "Yes, which is the ending for now." Moegerle, "I am glad to see that criminal sexual assault, felony arrests and others are down. Are we getting into the seasonal uptick of these petty types of issues?" Lt. Orlando, "We are. We will see a lot of that especially once the weather turns warmer. A lot of ordinance type of calls, loud music disturbance type calls. And more thefts from vehicles." Moegerle, "Traffic arrests. Are those just from patrol arrests?" Lt. Orlando, "Yes, these are just speeding type of tickets." Moegerle, "Are we getting a lot of DWIs out of those?" Lt. Orlando, "This month we only had two, which was consistent with last month. But I know they have been doing more with people running the stoplights on Highway 65. Our morning crews have been going out and working those areas to try to put an end to that, because obviously that is a very dangerous situation." Moegerle, "With the new stoplight going in on 221st Ave. here, are you expecting that to be exacerbated with people running that when it is first put in?" Lt. Orlando, "Probably not. I think the same people that are running them now will continue to run them until they get the ticket."

DeRoche asked, "Have you been hearing (because he has been getting a lot of complaints) about batteries and gas tanks being borrowed off the lake?" Lt. Orlando, "I have not heard about that, but we do have our water patrol starting up so I can make them aware of this." DeRoche, "Do they ever patrol at night?" Lt. Orlando, "I can let them know that this is becoming an issue. Usually out until 10 or 11 p.m. Every year this is an issue."

Public Forum

Lawrence opened the Public Forum for any comments or concerns that were not listed on the agenda. He explained we have some people hear that wish to speak on Route I1 on GRE and even though we had the public hearing to amend this to route I1, the City Council appreciates the impact of this issue and recognizes that there is a spokesperson present. City Council asks that you keep your comments to five minutes on this route. City Council will not be responding to this. This is the time for you to stand up and make your comment on how you feel. The City Council has complied with giving a notice in advance according to statute with the public hearing which was held on November 19, 2011 and the City has been consulting with GRE to be assured that GRE will work with the residents on the proposed routes, mitigating impact on facilities and practicable possibilities.

Becky Knisley, 23250 Sunset Road NE, "I want to thank you all for allowing us to address council tonight. I would like to note for the record, the people on Sunset Road were not notified about the public hearing on November 19th, the reason we were given was because we were not affected. They only notified the residents on Fawn Lake Drive and Durant Street NE. We have retained counsel regarding this matter, but have decided that I would speak on behalf of the residents rather than having counsel present tonight.

We would like to express our concern about approving the amendment to Route I1 (which I believe you are now calling Route I1A) which we regard Route F. We understand that GRE had public meetings in 2009 to introduce to the public a proposed plan of what they were thinking of doing to meet the energy demands in the area and that their original proposed route was very similar to what you are trying to amend tonight. As a direct result of these public meetings and conferring with the landowners, officials and evaluating contingencies, GRE proposed a change to the Route which is now known as Route A. In short, the City then instituted a moratorium to stop the power lines and then passed an ordinance regulating those lines. Record shows that a resident, (not a board member or commission member) was instrumental in developing the ordinance. He would be directly affected by approval of Route A. We as residents find that very strange and possibly a conflict of interest.

On February 22, 2011 at a Planning and Zoning meeting, the workgroup recommended Route I to Planning and Zoning. But, Route A was passed by Planning and Zoning four to one. At the time of that vote, the resident who lives on Route A, was only on the workgroup, not Planning and Zoning. He is now currently on Planning and Zoning. With that being said, he would have a direct interest to do everything in his power to see that Route A was not approved. Including help develop the ordinance, convince others to see things his way. He did abstain from voting at last week's Planning and Zoning meeting regarding the amendment to the route, but I have not had enough time to do ample research (because of the short notice we received), to check the records of all his votes throughout the whole process. But I will be working on this.

I also believe that the City may be in violation of proper notice to our group. On March 4, 2011 GRE applied for the CUP for Route A. On March 14, 2011 you received a petition from the residents with 67 signatures on it stating they did not want Route A, but rather Route I. We are presenting to you tonight a petition signed by over 100 residents stating that they are opposed to Route II amended route. These signatures are not just from people along the road, but they are from different areas of the City. Route A makes the most sense to the residents.

On April 6, 2011 the City tabled GRE's request for a CUP for Route A and as a result of that meeting they hired an outside consultant to examine the need for lines and the route alternatives. He also selected Route A as the best route within the City (and yes, we all get what within the City and outside the City means). He also states on page 7 of his report that the other attributes of Route A, compared to all the other route options, inside or outside the City are all favorable. The Council then denied the CUP for GRE going against the Planning Commission and the consultant's recommendations.

According to the record, the reason for the Council's denial of the CUP is the amount of wetlands affected by the proposed Route A is significantly higher than the other proposed routes. Again the statistics are conflicting. But, what that tells us as residents is it is more important to protect the wetlands than to protect the people. You have no valid basis to reject Route A. You are costing us the taxpayer's money by denying Route A, and just as you are deciding to affect other communities such as Athens and Linwood. You are forcing onto Linwood and Athens a route that affects more land, more tree removal and more people overall. In Route A there are no homes within 100 feet of the centerline of the road.

We have been told that the University has agreed on the line bordering Cedar Creek running along 26. So it would not affect homes on the south side of 26. In the proposed amended route, there are seven homes within 100 feet of the centerline of the road. I know that not all seven are within the City of East Bethel, only two of the seven are within the City of East Bethel. To push it down Sunset Road, a rural residential street, rather than County Road 26 is just ridiculous. There are numerous pinpoints and the lines will be jumping from side to side to avoid homes. You are treating Athens like they are the problem. We don't want it in our City so put it in yours. Their lines are already in, but you want to dictate to them what they should do. The same with Linwood. You are creating an undue burden onto these communities due to your legislation and need for control.

If you vote to approve the amended Route II tonight, what you will be doing is wrong. Look at these petitions. If we had more time, I would have a lot more signatures. Table the vote until next month, I will bring you a lot more, I will bring you hundreds of what makes sense.

GRE did not even apply for the CUP for Route I or Route II or Route II Amended. The City applied on their behalf. GRE is tired of this litigation and wants to get this done. You have costs the residents of East Bethel and these other cities by enforcing your legislation. If you approve this tonight, that is not going to make this go away. The residents of Athens and Linwood are petitioning their boards also and asking their boards not to accept your alternate solution as it affects more communities then it needs to. We understand that infrastructure is evitable. We as residents would expect to see high-voltage lines running along a Highway, or a County Road, we do not expect them to go down what the City considers a rural residential street (according to the city street map).

If you would be willing to table tonight’s vote, I would be willing to contact the East Bethel residents and see whether they think the high voltage line should go on a Highway/County Road or a rural residential street. I would venture to say that 90-95% of those people would say that they would expect it to go down a County Road. This is common sense, and I understand when that is not the case. But in this case we have an option for this to happen. I can appreciate all the time and the effort that I am sure all of you have put into this project. If you approve the amendment to this project tonight, what you are doing and have done will be wrong.

In closing, I would like to remind you that Planning and Zoning recommended Route A four to one and Mr. Schedin report recommends Route A and states that all the other attributions inside the City are favorable along with the fact that Athens has not approve this issue. I got that information just today before I came here. The board member from Athens came to my house and said, “We have not approved this amendment and it is going to be on tomorrow night.” They approved Route A two years ago. We were told that if litigation continues, the City of East Bethel will lose to GRE. We request that you do not approve the amended Route II, but approve GREs only CUP application, which is for Route A. Linwood has no ordinances currently in place to stop this, but Athens does.

There were no more 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, May 2, 2012 Regular Meeting; C) Meeting Minutes, April 18, 2012, Board of Appeals and Equalization; D) Meeting Minutes, April 25, 2012, Work Meeting; E) Meeting Minutes, April 26, 2012 Town Hall Meeting; F) Approve Application and Permit for a 1 Day Temporary Consumption and Display Permit for Cedar East Bethel Lions – Booster Day, July 21, 2012; G) Approve Application to Conduct Excluded Bingo for East Bethel Seniors – Booster Day, July 21, 2012; H) Adopt Remote Network Access Policy; I) Pay Estimate #2 for Elevated Storage Tank No. 1; J) Approval of Culvert Replacement 187th Lane NE. DeRoche seconded; all in favor, motion carries.

Appoint
Website
Committee

Davis explained the City’s website was updated to new template in June 2011. This update was an improvement in the format and template but was intended as only the first step to make the website more user friendly and current with basic website standards.

To insure that all the concerns regarding the website are addressed, staff is requesting that City Council appoint a committee composed of two Council members and one member from the EDA and Planning Commission to work with staff to prepare recommendations and directions to correct and improve the content, format and utility of the current website. These recommendations will be used as the outline and specifications to solicit a vendor to perform

this work.

It should be the goal of this committee to develop recommendations and report their findings to City Council at the June 20, 2012 Council meeting.

Voss asked when we discussed this last time, he thought we were going to try to solicit residents to be on this to? Davis, "If that is your desire, I would like to make it workable. If you have a resident that you would think could add input." Voss asked did we solicit? Davis, "No we didn't." Lawrence, "Why don't we form our group now and then our group can go out and bring in others they feel should be brought in." Voss said except the expectation is to report back in three weeks. Moegerle, "I don't recall that we were going to solicit a resident other than from one of the commissions. That would have been in the minutes that were approved. What meeting would that have been?" Voss asked are you checking if I made that statement or not? Moegerle, "I am checking to see if we discussed having residents involved. I don't recall that." Voss said that doesn't change the statement I made, which is just because we are elected officials that doesn't make us experts in website design. That is why I thought we were going to see what residents we had in that industry that could provide this type of expertise and guidance. DeRoche, "I didn't know that we said we were experts." Voss said that was my statement.

Moegerle, "I don't recall that statement and haven't considered that. It's acceptable, I just thought there was some urgency in this. And I do not recall that we were going to solicit people that were not on one of the commissions." Lawrence, "Three weeks should be plenty time to solicit a resident." Moegerle, "I thought we were going to be completed in three weeks, not just starting." Voss said we have been in hiatus for a year. DeRoche, "I think it is critical to get the residents involved." Moegerle, "How long will it take to solicit and get the residents involved?" Davis, "Our next meeting is in three weeks." Voss said you can get this on the e-mail list and the sign. Put it out there for anyone that is interested in helping serving on this task force. Moegerle, "I would like to add the caveat that if this is not in the minutes, that it be reconsidered. Just because we are looking at the speed of this." DeRoche, "Again, I think it is important, we have to get the residents involved. Those are the people that are having a hard time finding stuff on there. Have them help, figure out what we need to do so they can find stuff." Lawrence, "So we have to appoint two people from Council on there tonight?" Davis, "We can just wait and do this at the next meeting after we go out and solicit and see what residents want to be on there." Voss said he is okay with a member from the EDA and a member from Planning being on there.

Lawrence made a motion to table appointing the Website Workgroup until the June 6, 2012 City Council meeting with direction to staff to solicit for residents that are interested in serving on the workgroup. Voss seconded; all in favor, motion carries.

Planning
Comm. Mtg.
Minutes

Davis explained that the Planning Commission Meeting Minutes from April 24, 2012 are for information only. They are in draft form and have not been approved by the Planning Commission.

Great River
Energy – IUP
Amendment
to Route I1 for
Placement of
a

Davis explained that on October 19, 2011, City Council approved a CUP for the proposed location of a 69 kV transmission line known as Route I1 for the portion of line located within East Bethel city limits. The portion in East Bethel is located along Fawn Lake Drive (County Road 76) easterly to Linwood Township line.

Attachment 3 depicts the amended Route I1. The route follows Fawn Lake Drive and travels

southerly along Sunset Road. The transmission line is proposed to cross into Linwood Township and back into East Bethel at various points along Sunset Road.

Planning Commission to recommends approval to City Council for a CUP amendment to Route I1 (as shown on attachment 3) that includes the transmission line to travel south along Sunset Road for the portions within the City of East Bethel and recommend approval of the site plan for the location of the 69 kV transmission line with the conditions as listed in the write-up.

Moegerle, "Will we be hearing from GRE tonight?" Davis, "If you have any questions to ask them, they are here to answer them."

Moegerle made a motion to approve a Conditional Use Permit (CUP) for Great River Energy (GRE) for Route I1 that includes the transmission line to travel south along Sunset Road for the portions within the City of East Bethel and approval of the site plan for the location of the 69 kV transmission line with the following conditions: 1) GRE will submit a construction plan prior to commencing the construction of the 69 kV line, establishing both a construction timetable and a progression of construction that shall be reviewed and meet the approval of the City Engineer and staff; 2) GRE must submit easement descriptions and final route determination prior to the execution of the CUP Agreement; 3) A CUP Agreement must be executed no later than December 31, 2013. Failure to comply will null and void approved CUP. The agreement must be executed prior to the start of construction of the project; 4) GRE must obtain city right-of-way permits prior to the beginning of construction of the transmission line within city right-of-way along Durant Street, Fawn Lake Drive and Sunset Road. Lawrence seconded.

DeRoche, "Ms. Knisley said Linwood and Athens don't want this, which is contrary to what I have heard. Where are we at with that?" Davis, "Athens Planning Commission meets tomorrow night to consider this. If it is approved it will go to their Town Board meeting on Monday night. I spoke with Linwood today and this is up for consideration before their town board next week."

DeRoche asked the City Attorney, "Lawsuits were referenced. To your knowledge have we followed all ordinances?" Vierling, "I believe the City certainly has complied with the requirements to date on all these matters. So, yes." Moegerle, "Can you address that specifically with regard to issues of notice?" Vierling, "There were a number of notices that went out originally. You recall the original application was for Route A. They complied with by the Planning Department to that affected people on that route. They sent out a re-notice in October when the issue was re-addressed by the City Council at that time for Route I1. And most recently with the new application that was submitted and the follow up with Planning staff have complied as far as we can tell in the requirements of notice as well in mailing and posting and the obligations they have under your code."

Moegerle, "At one time GRE represented to me that if Route A was chosen and the under grounding of that last mile, west of the Linwood Township line was insisted upon, would cost \$4 million and that \$4 million would be passed on to each and every resident of East Bethel at an approximate cost of \$1,000 per household. Do you know if that is actually legally possible?" Vierling, "I know that was the position of GRE, if they were required to underground anything, that they would pass that along to the users. So how they would facilitate that, remember they are kind of a wholesaler of electric services as opposed to a

retailer, wasn't necessarily explored."

Moegerle, "How many houses are in that last mile of Route A, west of the Linwood Township line road on would have been affected in such a way by the transmission line that their homes would have been within a 100 feet of the transmission line?" Davis, "I don't have that exact figure, but I think there is approximately 30 homes within 100 feet. And depending on which side of the road it was going on, you would have to determine that before you determined that effect."

Voss said this whole process started back in 2008 when GRE first came to the City with this project. To me the process started in early 2009. Voss said this is a fairly unique situation to our City, but it happens to all cities from time to time. We started moving through this process and obviously the transmission line is going to affect somebody. To me, as Council and as representatives of the City, we have to consider all information, all input, particularly on matters that affect so many. Voss said although we had a process, I think some parts of that process were flawed. It was new to us too, so we can't really blame the City for it. But not getting everyone involved, (particularly Jerry early on) was a mistake. But what is interesting is now we have spent the better part of three years dealing with the routes that affect 229th and that part of the City and yet we are spending about three weeks on this new route. Voss said he doesn't think it has been vetted enough, considered enough, to the detail that these other routes were. It was part of the matrix, but we spent a lot of time trying to make Route A work. And I don't think we have spent enough time on this one. That is not to say this isn't the right decision for the City. To me it has been sprung on a lot of people unless they are really paying attention and it makes it an uncomfortable position to decide in such a short time frame.

Moegerle, "Are you saying a decision made in a short period of time cannot be a good decision?" Voss said he is not talking about the decision, he is talking about the process. Compared to the last three years we spent on the other alignments, we weren't as rigorous with this route as we were with others. Moegerle asked the City Attorney, "Can you address the issue of the process with this route? Have we complied with regard to the ordinance that was passed by the 2010 Council on January 6th with regard to transmission lines? With regard to the CUP?" Vierling, "Staff's position is we have." Moegerle, "This is the application of GRE. This is not the application of the City of East Bethel, they have requested it." Voss asked were you not at all those closed sessions? Paint it the way you want, we have not spent anywhere close to the amount of time on this one that we have on the others. Voss said he is not stating a judgment on which one is the best one.

Lawrence, "How much time do you need? We have had the paperwork on these routes for over a year." Voss asked how many times has this route come before us as a City Council at a meeting? Moegerle, "We formed a GRE Commission to look at this to see which route would have the least effect on East Bethel residents and in a broader way with regard to Athens and Linwood Township. We also worked with Cedar Creek. The GRE Commission revisited this issue, Route E1, which was what was originally proposed in December of 2008 many times. And when they looked at this route and said, "We need to go down Sunset Road", GRE vocalized and said, "No we can't do it for whatever reasons." At this point, they have found that reason no longer exists or was not valid. It was their belief and consensus that Route E and Sunset Road had the least impact on homes and land across the board and now we are second guessing whether they did the job right. I don't understand that."

Lawrence, "I was on the GRE Commission when this was worked on. And this is not just East Bethel's plan. This is a combination of Athens, Linwood and East Bethel's plan. These two townships and our city got together and planned the route. We told Athens what we would like and they said what they would do. We didn't plan that route, Athens planned that route."

DeRoche, "It is his understanding from what Knisley is saying is we went to Athens and Linwood and we shoved this down their throat. And that is not what's happened. Through mediation and our closed sessions, and discussions with the townships, (Davis and I went to the Town Board), this isn't something that just came up. There has been a lot of discussion. Because it is a political year, certain things are being said I think. The GRE Commission was tasked to gather as much information as they could and when you get a packet, then you research it yourself. You don't just go on what someone else is saying and it is not to second guess the commission, but it is to get a little better handle on what is going on. I have spent hour after hour going through the paperwork, driven the Sunset Route three times in the last two days. If by chance this went to litigation and a judge said, "It is going down Sunset" what are you going to do? Moegerle, "The beauty of this is it is self-determination. That all three jurisdictions agreed. Cedar Creek agreed to host those poles for the transmission lines on their property. The last mile on 229th will not have to be sold to GRE. It would impact those houses more closely than on this route. In addition, for this route only one East Bethel resident will have a pole in their yard. No home will have a pole or line directly in front of home as much as possible. If I could have a pole in my back yard, I would do it, it is my civic duty to do it. It is a terrible thing to impose this civic duty upon others. Everything we have done has been done with care and concern. GRE agrees. It is unfortunate that people will be impacted. What is the least impact for the City? There is no other way."

Lawrence, "I too have been down this road at least twice with the City Administrator and we have discussed it at length. I have taken the time to review what is going on and know it is going to impact people. With that being said, I think it is still the best route we can come up with. It has the least impact to the citizens of East Bethel."

Moegerle, "GRE has also indicated they will work with the homeowners to minimize impact. They will be compensated. It is not ideal. The problem is the City does not have a choice, it is going to happen to someone. The point is to minimize it, this is the way there is the least impact. There is not better option."

Voss said we need to make these assessments, evaluations, to make decisions. My point is with what is before us now, it did not receive the public input as the other routes. It is like we are working in a vacuum on this. Voss said back in January or February when we started discussion this, he made the statement that we need to notify the residents to make sure they are duly notified. Not three weeks ago, or whenever the first notices got mailed. Voss said as soon as we started talking about that route, the letters needed to go out. And we didn't do it. Moegerle, "I worked with GRE Commission for seventeen months and no one attended the meetings. No one offered input. This was on the website, in the newsletters, in our minutes, in our televised meetings. This was not a secret. People have a civic duty to be aware of what is going on. This is a process that begins early on. We gave the duly required notice by statute. I am not saying that's ideal. But what more can we do as a City?"

Voss said more than what is required by statute. Moegerle, "If you felt the City was not doing its duly required best in this, she is well familiar with the political process and the machinations that go in this City and I know there are people on Council and others that

could have gone to that on other issues. Could have gone to them and said you need a heads up on this. It was so well within their ability. If you felt that the people on Sunset Road were not getting the appropriate notice, it was within your ability.” Voss said he doesn’t know of any Council Members that go out and tell residents what is going on. My statement in the closed session was we should be notifying them. It is not my duty as an individual to be doing that. Voss said we could have done it and we didn’t. Voss said that is the point he made half an hour ago when we started. **DeRoche, aye; Lawrence, aye; Voss, abstain; Moegerle, aye; motion carries.**

Presentation –
Cedar Creek
Ecosystem
Science
Reserve

Davis explained that Dr. Jeff Corney will present an overview of the mission and programs offered through the Cedar Creek Ecosystem and Scientific Reserve (CCESR) and their relation to the City’s efforts to promote economic development. The presentation will also focus on the “Front Door” to Cedar Creek (229th Ave.), the vision for the development of the 229th Avenue Corridor as it pertains to the long range goals of the program and opportunities for cooperation between the City and CCESR on projects of mutual interest.

Dr. Jeff Corney: Thank you for inviting me to talk about Cedar Creek Ecosystem Science Reserve. Our Mission: we are part of the University of Minnesota and have been for 70 years. Our mission is to research ecosystems. We are looking at what are issues facing us today. What are the environmental stressors and how to solve problems. We are part of a global effort. Through the National Science Foundation we are one of the 26 long term research sites. Been that since 1982. Part of a new network called NEON.

Our property, half is in East Bethel and the other half is in Athens Township. About 9 square miles. Headquarters is off of Fawn Lake Drive. Our namesake is Cedar Creek. We are in the middle of the Anoka Sand Plain. What we learn on our property, is what would help you learn on your property. We preserve and protect these things, but you have these things in your backyards; bogs, tamaracks and black spruce, etc. The northern forest ends in East Bethel. We have representation of all three ecosystems in the northern region.

Cedar Creek has been around for a long time, since the 1930’s. In 1942 the main land was handed over to the University and put in trust. It was then known as Cedar Creek Forest. Then seven years ago when I came aboard we became Cedar Creek Ecosystem Science Reserve. We have many researchers Dr. Dave Tilman and many others Dr. Peter Reich who look at the big issues. The plots you drive by on Fawn Lake Drive are one of the largest experiments of its kind. A Co2 enhancement experiment. We have gotten a lot of press from this experiment. In the spring we burn 400-500 acres and more in the fall.

The latest area we are looking at is how to deal with fuel. We are looking at native prairies and what they could do.

Dr. Corney explained we would like to become more active education and the public. We are one of the top 10 research sites in the world. Dr. Dave Tilman the 10th most sited in the world, Reich, the 5th most sited. We have a new research building and invite you to come in and look around. We have a new trail. We run tours. Cedar Creek has been here a while and we would love for you to know about it. It is a big part of the community.

Voss asked if residents want to come visit, how do they do that? Dr. Corney, “Just come to the main office. We are not always in, there but someone should come around if you come in. We do have maps in there. If you want something more formal, like a tour we can make arrangements for you. We are looking to expand our relationship with the City. Start

thinking bigger ideas and access.”

Lawrence, “Are the trails just for walking, no bicycles allowed?” Dr. Corney, “We are talking about linking with the Anoka County trails. We do need to protect a lot of area. We have cross-country ski trails, low impact.” Lawrence, “Because of the nature of your work people need to realize they need to stay on the trails, correct?” Dr. Corney, “Because of the ecosystem we need to keep people on the trails. It is a nice place to come enjoy nature.”

Aggressive
Hydraulics,
Site Plan
Review for
18800 Ulysses
St. NE

Davis explained that Mr. Strandlund and Mr. Johnson are requesting a site plan approval to construct a 60,000 square foot commercial building for the business known as Aggressive Hydraulics. Aggressive Hydraulics is the manufacturer of hydraulic cylinders. The business is currently located in Blaine and employs 40+ workers.

The 6.06-acre parcel is bordered by unimproved Buchanan Street and R2 Single Family Townhome Residential to the west, and B3 Highway Business to the north, south, and east. The property will be accessed from Ulysses Street NE.

The proposed site plan provides 78 parking stalls; 4 accessible stalls have been provided to meet ADA requirements. Parking stalls are 9’ x 20’ with a proposed 24’ aisle width. The parking lot will be constructed of a bituminous surface with concrete curb. All parking areas will be required to be properly striped.

The proposed lighting plan provides for seven (7) lights around the building. Lights must be downcast and shielded.

The Applicant will be planting a variety of trees and shrubs around the site which meets code requirements. Privacy fencing and lilacs will be planted along the western property line that abuts the residentially zoned property. The grounds will have an irrigation system installed. According to East Bethel City Code, all new plantings, including turf establishment, must be guaranteed for one full year from the time the planting has been completed. A letter of credit or a cash escrow will be required by the owner in the amount equal to at least 150 percent of the approved estimated landscaping cost. The letter of credit must be provided prior to the issuance of a building permit and must be valid for a period of time equal to one full growing season.

Many of the comments of the City Engineer have been addressed by the Applicant. The Applicant will need to continue to work with the City Engineer until all comments have been satisfactorily addressed.

Planning Commission recommends approval to City Council of a site plan review for the construction of a commercial building, located in Classic Commercial Park 2nd Addition, Lot 1, Block 2, with the conditions as listed in the write-up.

Voss asked are the walls brown or red? Strandlund, “Actually they are brown, and the part that projects out are a different color.” Lawrence, “Have you reviewed the stipulations?” Strandlund, “Yes.” Voss asked from the site plan it looks like there is quite a bit of impervious surface. What are our requirements on impervious surface? Jochum, “I assume the city planner has checked that.” DeRoche, “Is there anything going on west side?” Strandlund, “It is on the landscape plan.” Voss said it looks fairly thin, all you have is a hedge. There is green space on Ulysses, but what about the west side along Buchanan? Strandlund, “I consider that the back of the building.” Voss said he would have thought the

north side is the back of the building.

Voss asked with the dock doors and traffic, looking at long term, in 20 years, Aggressive might not be there. Not suggesting flipping the building, but you are going to have exposure. Strandlund, "We have a 6-8 foot fence." Voss asked does the building need three side architecture and screening? If we have houses on the side of this, for the aesthetic, long term value. Voss said if we had residents over there, you may be looking at this differently, I am thinking of the long term. DeRoche, "We have to think long term." Voss said he thought we had it in our architectural standards more of a three side standards. Davis, "It is open to interpretation in our ordinances." Voss said he is just putting it out there, this is a nice business, nice development, good development.

Voss made a motion to approve the site plan for Aggressive Hydraulics (a commercial building) to be located in Classic Commercial Park 2nd Addition, Lot 1, Block 2 with the following conditions: 1) Site plan approval is contingent upon the approval of the final plat for Classic Commercial Park 2nd Addition and the approval of drainage and utility easement vacation; 2) Applicant must continue to work with staff to satisfy all comments and concerns to staffs' satisfaction; 3) Letter of credit or a cash escrow will be required by the owner in the amount equal to at least 150 percent of the approved estimated landscaping cost. The letter of credit must be provided prior to the issuance of a building permit and must be valid for a period of time equal to one full growing season. In addition to the letter of credit or cash escrow, the owner must submit an estimated landscaping cost for plantings and turf establishment; 4) Full set of the site plan must be signed by a licensed professional engineer; 5) Signage must meet requirements according to East Bethel City Code Chapter 54. Signs. Sign permits must be approved prior to the installation of signage on site; 6) Any modifications to the approved site plan shall be submitted to and approved by City Staff; 7) All conditions must be satisfied prior to the issuance of a building permit. Lawrence seconded.

DeRoche, "On November 16th when this was first looked at they had 60 employees and 10 SAC units, I am wondering what happened to other employees?" Davis, "Those were the numbers given to us at the time. As far as the SAC units, that was the number given to us by MCES at the time, we did not have the floor plan, so that was the best estimate." DeRoche, "So Met Council is setting the number of SAC units?" Davis, "This is done by historical analysis." DeRoche, "Met Council's previous historical analysis had a lot more units down there. In his mind, he has trouble with this. If we keep cutting this back, where are we going to get the units from." Davis, "Actual SAC units are going to be based on use. The initial determination was 45. These are based on use." DeRoche, "That I understand. Met Council shouldn't have made any commitments up front that Bolton and Menk did their design on. I am a little concerned about setting a precedent." Moegerle, "Setting a precedent of what?" DeRoche, "Aggressive Hydraulics is at eight?" Davis, "Yes, that is what Met Council determined their SAC units are. We do have a fee set for SACs and WACs. In some cases they will be below and some cases they will be over." DeRoche, "We do water and Met Council does sewer? I want to make sure we are not bartering away any ERU units." Davis said "No there was no reduction of ERU units on this." Moegerle, "Met Council's are completely unrealistic." DeRoche, "This came up because I remember what they said. I need to understand this before it goes through. Once it is passed, it is passed." **All in favor, motion carries.**

Classic
Commercial
Park 2nd
Addition –
Preliminary
Plat

Davis explained that Mr. Strandlund is requesting preliminary plat approval for the subdivision known as Classic Commercial Park 2nd Addition. The plat is 19.46 acres and is being proposed to be developed into two (2) commercial parcels and one (1) outlot (to be further divided in the future).

All parcels meet the requirements set forth by the zoning ordinance and are as follows:

Lot 2, Block 1

Lot Size: 4.43 acres

Lot Width: 369 feet

Buildable Area: 4.43 acres

Municipal Sewer and Water Availability

Lot 1, Block 2

Lot Size: 6.06 acres

Lot Width: 376 feet

Buildable Area: 6.06 acres

Municipal Sewer and Water Availability

Outlot A

Lot Size: 8.97 acres

Buildable Area: 8.97 acres

Classic Commercial Park is bordered by residential property to the west and commercial property to the north, south, and east. The main ingress/egress from the development is from 187th Lane NE and Ulysses Street. Ulysses will be extended approximately 300 feet to the north to access the new commercial parcels. The existing temporary cul-de-sac easement will be vacated and a new temporary cul-de-sac easement will be recorded. The easement will remain in place until such time as Ulysses is further extended to the north. The street will be required to be constructed to meet City specifications.

The City Engineer has reviewed the preliminary plat. Comments are provided in attachment 10 along with Article III of the subdivision code. All comments will be required to be addressed to the satisfaction of the engineer prior to the signing and filing of the final plat.

Planning Commission recommends Preliminary Plat approval to the City Council for the commercial development known as Classic Commercial Park 2nd Addition to create two (2) commercial parcels and an outlot (to be further divided in the future) with the conditions as listed in the write-up.

DeRoche made a motion to approve the preliminary plat for Classic Commercial Park 2nd Addition to create two commercial parcels and an outlot with the following conditions: 1) All comments/concerns of the City Engineer shall be addressed to his satisfaction prior to signing and filing of final plat; 2) All comments/concerns of the City Attorney shall be addressed to his satisfaction prior to submittal of final plat; 3) Development Agreement must be executed after the approval of the final plat. Moegerle seconded.

Voss asked do you have a stormwater pond south of this development? He thought way back when the pond by the bank was constructed, it was large enough it would handle all the

stormwater so we wouldn't need this one. Jochum, "That pond is a wetland mitigation area. It is considered a wetland." Voss asked and there is no way we can get around that? He said we are using prime land to create a stormwater pond. Strandlund, "They are two different classifications." Voss said this seems like an absolute waste of space. **All in favor, motion carries.**

Classic
Commercial
Park 2nd
Addition –
Final Plat

Davis explained that the City Engineer and City Attorney have reviewed the final plat. All remaining outstanding items must be satisfied and both consultants recommend approval of the final plat.

As part of the final plat approval, Mr. Strandlund will be required to execute a Development Agreement with the City of East Bethel. Attachment 3 is a draft of the development agreement. Mr. Strandlund will be required to continue working with staff to finalize the agreement.

Staff recommends Final Plat approval to the City Council for the commercial development known as Classic Commercial Park 2nd Addition to create two (2) commercial parcels and an outlot (to be further divided in the future) with the conditions as listed in the write-up.

Voss made a motion to approve the final plat for Classic Commercial Park 2nd Addition to create two commercial parcels and an outlot with the conditions as follows: 1) All comments of the City Engineer and City Attorney must be satisfied prior to the signing and release of the final plat; 2) Development Agreement shall be executed prior to the signing and release of the final plat; 3) Property owner must pay outstanding balances and submit financial securities as outlined in the Development Agreement prior to the signing and release of the final plat; 4) One (1) digital electronic copy of the final plat must be submitted in a format using Anoka County Coordinate system; 5) Final plat must be filed with Anoka County, Minnesota no later than October 16, 2012. Failure to file the plat by this date shall void the approval decision of City Council. Moegerle seconded.

Voss said we don't normally final plat until all road improvements are completed. Vierling, "This is a very preliminary draft of the development agreement." Jochum, "We have final platted after improvements in the past." Voss asked what does our ordinance read? Vierling, "They have to get final plat approval before they can get bank financing." Voss said it has been such a long time since we have done one of these. If we approve the final plat and we don't have a developer's agreement, doesn't it have to come back anyways? Voss asked if the final plat is contingent on execution of the developer's agreement do they really have a final plat? Vierling, "Not until the developer's agreement is complete."

Strandlund, "We were hoping to file the final plat and move forward." Voss said but the issue is we don't have a developer's agreement ready. He doesn't have a problem approving the final plat. Staff will work diligently with the developer to get this done and schedule a special meeting to get this approved if possible before June 6th. **All in favor, motion carries.**

Park Comm.
Mtg. Minutes

Davis explained that the Park Commission Meeting Minutes from the April 11, 2012 are for information only. These minutes have been approved by the Park Commission.

Road Comm.
Mtg. Minutes

Davis explained that the Road Commission Meeting Minutes from April 10, 2012 are for information only. These minutes have been approved by the Road Commission.

Doug Paulson & Taylor Reichow, Administrative Subdivision – Lot Line Adjustment

Davis explained that Mr. Reichow and Mr. Paulson are requesting approval of an administrative subdivision for a lot line adjustment. East Bethel City Code Chapter 66, Subdivisions, allows lot boundary line adjustments where the division is to permit the adding of a parcel of land to an abutting lot. Administrative subdivisions do not require a public hearing; therefore, City Council is the only review body for the land use request.

Mr. Reichow's existing parcel is 2.4 acres. It is being proposed to move his southerly property line 175 feet further south and easterly 170 feet (attachment 3). The existing 2.4 acre parcel will increase to 4.4 acres.

Mr. Paulson's existing parcel is 40 acres in size. It is proposed that the northwest corner (175 feet x 500 feet or 2 acres) is combined with Mr. Reichow's parcel to the north (attachment 4). The existing 40 acre parcel will decrease to 38 acres.

The City Attorney has reviewed the proposal and has requested the following:

1. An ownership and encumbrance report identifying fee owners, lien holders and easements, prepared as to each existing lot of record.

The administrative subdivision meets the requirements set forth in city code and meets the policies adopted as part of the East Bethel Comprehensive Plan; therefore, staff suggests City Council consider approving the subdivision.

City Staff is recommending approval of the Administrative Subdivision that would allow a lot line adjustment for the properties known as 3012 227 Lane, PIN 03-33-23-12-0003, and 3233 227 Lane, PIN 03-33-23-13-0001. The parcel known as 3012 227 Lane, East Bethel, will increase in size from 2.4 acres to 4.4 acres. The parcel known as 3233 227 Lane, East Bethel, will decrease in size from 40 acres to 38 acres with the conditions as listed in the write-up.

Voss made a motion to approve the request of Doug Paulson & Taylor Reichow for an Administrative Subdivision to allow a lot line adjustment for the properties known as 3012 227 Lane NE (PIN 03 33 23 12 0003) and 3233 227 Lane NE (PIN 03 33 23 13 0001). The parcel known as 3012 227 Lane NE, East Bethel, will increase in size from 2.4 acres to 4.4 acres. The parcel known as 3233 227 Lane NE, East Bethel, will decrease in size from 40 acres to 38 acres. With the following conditions: 1) Submit an ownership and encumbrance report identifying fee owners, lien holders and easements, prepared as to each existing lot of record. This information can be identified on the existing survey; 2) Certification from the surveyor must be submitted stating that all lot corners have been set; 3) New property description must be reviewed and approved by City Engineer prior to the signing of the parcel deeds; 4) Deeds and survey shall be recorded at the Office of the County Registrar of Titles no later than September 16, 2012. Failure to promptly record this transaction will void the administrative subdivision. Vierling, "I would note that we would like to have approval authority over the final deeds to make sure they conform." DeRoche seconded; all in favor, motion carries.

Classic Construction, Lot 1, Block 1 and Outlot A,

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

Attached for Council review and approval is Resolution 2012-24, which grants the vacation of the drainage and utility easements. As described on the resolution, vacation of the drainage and utility easements would be subject to the following two conditions:

1. This approval is contingent upon approval of the preliminary and final plat of Classic Commercial Park 2nd Addition and if either of those items fail to be approved by the City or fail to be recorded with Anoka County, approval of the vacation of the drainage and utility easements shall be null and void.
2. This resolution shall be recorded with Anoka County at the time the final plat for Classic Commercial Park 2nd Addition is recorded with Anoka County.

Staff is recommending approval of Resolution 2012-24 Granting Vacation of Drainage and Utility Easements on Lot 1 Block 1 and Outlot A, Classic Commercial Park.

Voss made a motion to adopt Resolution 2012-24 Granting Vacation of Drainage and Utility Easements on Lot 1, Block 1 and Outlot A, Classic Commercial Park. Moegerle seconded; all in favor, motion carries.

Davis explained that at the May 2, 2012 meeting the Council selected the base color for the tower. The color selected from the Color Card was Filament. The City logo is planned to be painted on two sides of the water tower. The Logo colors need to be selected such that the paint can be ordered. As required by the contract the contractor has provided a scaled drawing of the Logo, that was included as part of the project specification. The drawing is included as Attachment 1. The contractors Color Card is included as Attachment 2.

Logo construction is included in the contractors bid price.

Staff recommends Council select the colors for the City logo.

DeRoche, "I think the water tower looks good now." Moegerle, "What is the cost of putting the logo on the tower?" Jochum, "This particular logo, \$7,000." Moegerle, "What is the cost if we just put the name. I am concerned about seeing the crane from so far away. The letters are just four feet and it would be nice if they were bigger." Voss said one of the discussions was whether the words "City of" should be in the logo when it was done. It opens up the graphic if you don't have this included. Voss said and he doesn't think it is important to the water tower. Lawrence, "What if we enlarge the letters?" Jochum, "We only have about 18 feet to work with. Otherwise the limits of the logo get slanted." Moegerle, "Let's just go with the words "East Bethel" and maybe the blue/green under it, but leave the bird off." Lawrence, "I would like people to drive by on 65 and see East Bethel." Moegerle, "From a distance you are not going to understand what the logo is, unless you are a resident." Moegerle, "What would the deduct be for the simplification?" Jochum, "\$1,500."

Moegerle made a motion to just put the words East Bethel in Rain Forest Green to fully fill up the Water Tower. Voss said we talked about distortion, and if the logo is expanding it will get distorted. Jochum, "You cannot lower the "Bethel" at all." Voss said if that is the equator we are going to have a little bit of room to move to the top. Moegerle, "Can we put East Bethel in single line?" Jochum, "No." Voss said the advantage this logo has is ours is more horizontal, the lettering is definitely bigger. Lawrence, "What is important to have the name or the logo?" Motion fails for lack of a second.

- Fire Dept. Report Davis explained that the fire department reports are attached for your information. Meeting 6:00 p.m.
- Special Meeting Council scheduled a special meeting for Wednesday, May 23, 2012 at 6:00 p.m. to discuss the Logo for the water tower and the developer's agreement for Classic Construction.
- Council Member Report – DeRoche, “The fire department has been busy. On Viking Boulevard there were a lot of accidents and a couple deaths this year. There is concern about when they start working on Viking Boulevard there will be more incidents. Also, there have been a few thefts on Coon Lake.”
- Council Member Report – Moegerle, “Last week Davis and I went over to Cedar Creek and had a very good decision with Dr. Jeff Corney about the plans for Cedar Creek to expand their public engagement. We identified public needs. One question I have is what is going on with the watersheds? We don't get the minutes from those meetings. Also, we still need to work on an identity and vision for the City.”
- Council Member Report – Voss asked how did the Lowell Friday hearing go? Davis, “It was run very well. The hearing officer did a wonderful job setting the tone for the hearing. The issues were addressed very respectfully. Mr. Friday was represented by his attorneys and the lady working for him. We did record it and that will be available on the cable channel.” Vierling, “The hearing officer report and recommendation will probably be before council on June 6.”
- Voss said with regards to Viking Boulevard and the pending road closure, last time we had a major road closure, we did a bit of advertising to let folks know. Davis, “As soon as we receive information we will post it on the website and we will put it on the cable channel.”
- Council Member Report – Lawrence, “In regards to the road project on Viking Boulevard, Viking Meadows Golf Course is concerned it will shut them down.” Davis, “Everything will be open to through traffic. It is not Anoka County's attention to shut down a business. We can have a discussion with the businesses along that route.” Voss said having a sign up saying you can get into the business would be important. Davis, “We will contact those businesses to say we will be the liaison between them and the county regarding that issue.”
- GRE Litigation Vierling explained that for the benefit of the public and the public record, Council has recommended we go into closed session per Minnesota Statute 13D regarding a matter of litigation, Great River Energy (GRE) vs. the City of East Bethel, District Court File # 02-CV-115638. After the closed session, Council will return into open session to announce any motions or actions.
- DeRoche made a motion to go into closed session to discuss Great River Energy vs. the City of East Bethel. Moegerle seconded; all in favor, motion carries.**
- Vierling explained the Council has concluded the closed session dealing with Great River Energy vs. the City of East Bethel. Attending were special Counsel, Jim Strommen, Council Member DeRoche, Council Member Voss, Council Member Moegerle and Mayor Lawrence. Also attending were Jack Davis, City Administrator and myself, City Attorney. Council got input but no vote was taken.

Adjourn **Moegerle made a motion to adjourn at 10:39 PM. Voss seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk