EAST BETHEL CITY COUNCIL MEETING
May 2, 2012

The East Bethel City Council met on May 2, 2012 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT:	Bob DeRoche	Richard Lawrence	Heidi Moegerle
MEMBERS EXCUSED:	Bill Boyer	Steve Voss	
ALSO PRESENT:	Jack Davis, City Administrator Mark Vierling, City Attorney Craig Jochum, City Engineer		

Call to Order **The May 2, 2012 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Moegerle made a motion to adopt the May 2, 2012 City Council Agenda.** Moegerle, "I would like to pull the following items from the consent agenda: D) Approve Completion of Probation – Receptionist and H) Release Landborg Escrow for Wetlands (this item I think the residents are entitled to more of an explanation of what this is) and add 8.0 C Closed Session to discuss LMC Settlement Matter. Lawrence, "I would also like to pull from new business the Tim Chies and Jordan Valder business request. I would like some more information on this. Can I table this?" Vierling suggest he wait until the agenda item is brought up to discuss it. Moegerle, "Either under Economic Development or Community Development I would like to talk about the direction of the EDA and vision and that kind of stuff. I don't care where we put it." Davis suggested under Council report. **Lawrence seconded** DeRoche, "We should have a full council for discussion." **All in favor, motion carries.**

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

Consent Agenda **Moegerle made motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, April 18, 2012, Regular Meeting; C) Resolution 2012-23 Accepting Donations for the Fire Department; ~~D) Approve Completion of Probation – Receptionist;~~ E) Pay Estimate #2 Municipal Builders, Inc. for Water Treatment Plant No. 1; F) Pay Estimate #12, S.R. Weidema, Phase 1, Project 1, Utility Improvements, G) Fire Fighter Resignations; ~~H) Release Landborg Escrow for Wetlands~~. Lawrence seconded; all in favor, motion carries.**

D) Approve Completion of Probation – Receptionist; Moegerle, "The reason I pulled this is the same reason I pulled Nate's as well. Carrie has been a great asset to the City. It is always fun to have the phone answered by her. She is always cheerful and willing to help. She has some great ideas and when we are talking about her being an exemplary employee at this time going off probation, I think it is great and we are very glad to have you aboard." Lawrence, "I wanted to acknowledge you and thank you for your service." DeRoche, "I have heard quite a few good comments from people who come in here versus the atmosphere that used to be." Moegerle, "Yes, that there is always a smile. You make it much more pleasant."

Moegerle made a motion to approve the Completion of Probation for Carrie Frost, Receptionist. DeRoche seconded; all in favor, motion carries.

H) Release Landborg Escrow for Wetlands

Moegerle, "Can staff explain this so everyone understands the reasons for this?" Jochum, "This started in 2007; Mr. Landborg had put in an application to do a wetland bank. This is for wetland replacement, when you fill wetlands. It was partly done to mitigate the site that he filled at Viking and 65 and then he was going to bank the rest of the credits. Since then he had requested not to bank those credits, but the City was interested in taking those credits over for the Water Treatment Plant because we needed some credits. So in turn the City agreed to finish the permitting issues he had, forgive about $2,400 in fees that he owed, and then release his current cash escrow that he had. In general that was a cost savings to the City of $49,000 since we did not have to buy those credits. And that permitting is now completed. All the agencies have bought off on swapping credits. His site is done at Viking. There is a letter in the packet that he has signed and brought to City Hall.

Moegerle, "Is there a "closing" like you would have on a sale of a property with all of these different agencies signing off? Or do we just write him a check? Are we done today after we approve this?" Jochum "We were done with meeting with all the agencies a couple weeks ago. We are not really writing him a check, he has money sitting at the City, and it is his money we are releasing. And then that expense is forgiven."

DeRoche, "What does map on page 34 have to do with this?" Jochum, "It just shows where the wetland was created." Lawrence, "This will actually be a savings to the City of East Bethel of $49,000, correct?" Jochum, "That is correct."

Moegerle made a motion to authorize the Release of Landborg Escrow for Wetlands. Lawrence seconded; all in favor, motion carries.

Katy & Keith Murshcel, 954 197th Avenue NE, Interim Use Permit for Horses

Davis explained that Mr. and Mrs. Murschel are requesting an IUP for the keeping of one (1) horse and three (3) ponies on a 10.5 acre parcel they recently purchased. An IUP for three (3) horses was approved in 2003; however, IUPs are not transferred when the property is sold.

East Bethel City Code Section 10. Article V. Farm Animals, requires that no animals that are regulated by the code can be kept on a parcel of land located within a platted subdivision or on any parcel of land of less than three (3) acres (130,680 square feet). The 10.5-acre parcel is not located within a platted subdivision.

There are no wetlands present on the 10.5-acre parcel. There is an existing barn to house the horses and three (3) fenced in pastures for rotating the livestock. City Code has a limit on the number of animals per parcel. Horses require one acre of pastureland per horse. Pasture land is defined as land with vegetation coverage used for grazing livestock. Pasture growth can consist of grasses, shrubs, deciduous trees or a mixture, and not including wetlands.

City staff has conducted a site inspection. The property meets the requirements set forth in City Code for the keeping of farm animals.

Planning Commission recommends approval to City Council for an IUP to allow three (3) ponies and one (1) horse at 954 197th Avenue NE, PIN 30-33-23-11-0009, for Keith and Katy Murschel with the conditions as attached in your packet.

Lawrence made a motion to approve the request of Katy and Keith Murshcel at 954 197th Avenue NE (PIN 30-33-23-11-0009) for an Interim Use Permit (IUP) to allow three ponies and one horse with the following conditions: 1) An Interim Use Permit

Agreement must be signed and executed by the property owners and the City; 2) Property owners must comply with City Code Section 10. Article V. Farm Animals; 3) Permit shall expire when: a. The property is sold, or b. Non-compliance of IUP conditions; 4) Property owners shall have thirty (30) days to remove approved domestic farm animals upon expiration of the IUP; 5) Property will be inspected and evaluated annually by city staff; 6) Conditions of the IUP must be met no later than August 1, 2012. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP; 7) If the animal units change, the property owner must complete a Request for Change of Animal Units form available from the Planning Division. This form is intended to keep staff updated as to the number and type of regulated domestic farm animals kept on the property. The form will be kept in the address file. Moegerle seconded.

DeRoche, "It is his understanding City Code says three acres per horse." Davis, "It is one acre per horse." DeRoche, "Do they have an appropriate place to live?" Davis, "There is a barn on site to house the animals." DeRoche, "Are the neighbors pretty good with this?" Davis, "There have been no complaints from the neighbors that we know of. This property had a previous IUP for horses and the property was sold. However the IUP wasn't transferable with the sale of the property."

Moegerle, "The question I have, and it's probably trivial, in the write-up, "grass, shrubs, deciduous tress or a mixture". Why not evergreens, are evergreens poisonous to horses?" DeRoche,"I don't think evergreens are good for them, think they are acidic." Davis, "Don't think horses eat evergreens." Moegerle, "Part of this is we have talked about the Tree Ordinance." Davis, "That is taken straight out of the City Code."

Lawrence, "What is the end date of the IUP?" Davis, "IUPs you can put an end date on them or you can let them go indefinitely. This one says it will end when the property is sold or when they are in non-compliance of the IUP conditions." DeRoche, "What's to say it goes great for a year and then we just say indefinitely?" Davis, "I think with these animal IUPs it is better to stick with these two things because it is really an inconvenience for people to have to come back in for a renewal. If there are issues, or a property sale, I think that has been fairly pointed out that it will be brought before Council very quickly. Lawrence, "How often do we have an inspection by City staff to make sure they are in compliance?" Davis, "Annually."

Moegerle "The other thing that is missing here is we give them notice that we are coming out to inspect, but does it expire immediately after non-compliance occurs or after there is a determination? That is a little vague." Davis, "I think it says in the code that is 30 days." Moegerle, "You have 30 days to remove the animals, but does it expire when the non-compliance occurs or when there is a determination of non-compliance." Davis, "It would expire when there is a determination of non-compliance." Lawrence, "Is that by staff or council?" Davis, "By City Council." **All in favor, motion carries.**

Tim Chies & Jordan Valder, 18805 Highway 65 NE, Interim Use Permit for Automotive

Davis explained that Mr. Jordan Valder has rented a portion of the building located at 18805 Highway 65 to conduct business from the site. The business is known as Valder's Vehicles which is defined as a motor vehicle and motorcycle internet distribution sales. This type of use is allowed in the B3 – Highway Business district with an IUP that is limited to no more than two (2) years, at which time the property owner and applicant will be required to re-apply for an IUP.

and Motorcycle Internet Distribution Sales

Valder's Vehicles is an internet based business that sells used cars and new scooters. Most of the clientele will contact Mr. Valder to find a specific vehicle or they can look at vehicles on the business website. Once Mr. Valder finds a vehicle he brings it to the site to clean it up and makes an appointment for the client to look at the vehicle. Most times the client will purchase the vehicle; however, there are occasions when the vehicle is not purchased. If this is the case, Mr. Valder will place the vehicle on the website and will have it for sale on the lot.

The site will need a designated parking area for customers and for parking of stored vehicles. City Code Appendix A. Zoning, Section 22 regulates the number of parking stalls required. Mr. Valder is required to submit the size of the rented space so staff can calculate parking requirements. Areas where vehicles are parked or stored must comply with code requirements pertaining to size, striping, and identification.

According to state building and fire codes, a Certificate of Occupancy is required when the occupancy of a commercial building is changed. Mr. Chies and Mr. Valder are required to comply with state building and fire codes. Satisfactory compliance will be determined by the fire and building safety departments.

This type of business is regulated by city code, Ordinance 36, Second Series (Attachment 4). Mr. Valder will be required to meet all requirements of the code. Failure to comply will result in the revocation of the IUP.

Planning Commission recommends approval to City Council for an Interim Use Permit in the B-3 Highway Commercial District for Automotive and/or Motorcycle Internet Distribution Sales. The business being located at 18805 Highway 65 NE, Suite A with the recommendations as included in your packet.

Lawrence made a motion to table the request for an Interim Use Permit (IUP) for an Automotive and/or Motorcycle Internet Distribution Sales business at 18805 Highway 65 NE for two weeks, (until the next regular City Council meeting). Lawrence, "He would like some more information on this." Moegerle, "What information are you lacking?" Lawrence, "I would like to talk to Mr. Chies personally. I would like to see what is going on there, how it is going to be run." Jordan Valder, "I am the one taking care of the building, Mr. Chies is never there. What information do you need?" Lawrence, "I would like to do a site inspection and see what is going on there." **Motion fails for lack of a second.**

Moegerle made a motion to approve the request of Tim Chies and Jordan Valder for an Interim Use Permit (IUP) for an Automotive and/or Motorcycle Internet Distribution Sales business known as Valder's Vehicles at 18805 Highway 65 with the following conditions: 1) At least ninety-five (95) percent of all sales shall be initiated and secured through internet communication between buyer and seller; 2)Exterior storage area for vehicles and/or motorcycles is limited to 4,000 square feet and shall not interfere with access to required parking spaces. Exterior storage is limited to no more than twenty (20) vehicles and/or motorcycles for a maximum of forty-five (45) days; 3) Parking areas must be identified, striped, and sized according to city code, Appendix A, Zoning, section 22.4, including accessible parking stalls; 4) Exterior storage of inoperable vehicles and/or motorcycles, equipment, parts, or materials used in the conduct of the business is prohibited; 5) Minor vehicle and motorcycle maintenance is permitted as an accessory use as to vehicles and/or motorcycles awaiting sale and delivery only, within a structure. All vehicles awaiting maintenance must be stored inside the principal structure. Body work is prohibited; 6)Life

and safety inspection by the city building and fire departments must be completed and satisfactorily addressed by Applicant. A Certificate of Occupancy must be issued by the city building department; 7) Vehicle and/or motorcycle storage area shall be surfaced with concrete or bituminous and shall meet required parking setbacks. Vehicles and/or motorcycles must not be stored in the right-of-way; 8) All necessary state and city licenses shall be obtained prior to operation and displayed for public view during business hours; 9) Business owner must submit records of sales type as requested by city staff within fourteen (14) days of request; 10) An Interim Use Permit is limited to no more than two (2) years duration, upon initiation or renewal. Expiration date is May 31, 2014; 11) An Interim Use Permit Agreement must be executed no later than May 31, ~~2014~~ ***2012*** and all conditions must be met no later than July 1, 2012; 12) All signs associated with the use shall be in compliance with the East Bethel Sign Ordinance. (***Moegerle noted a typo in condition 11***). **DeRoche seconded.**

DeRoche, "Can we make this contingent on Lawrence having an opportunity to do a walk through the place?" Lawrence, "Any questions I have can be resolved any way." **All in favor, motion carries.**

CD Properties, Classic Commercial Park 2nd Addition, Concept Plan

Davis explained that CD Properties is proposing a concept plan for a commercial development known as Classic Commercial Park 2nd Addition. The 1st Addition was finalized in April 2006. The 19.46 acres parcel is proposed to be developed into two commercial parcels and one outlot that will be further subdivided in the future. The proposed lots meet area and dimensional requirements as required by the zoning ordinance. Municipal sewer and water will be stubbed to each of the parcels.

The City Engineer and City Attorney have reviewed the concept plan and have provided comments as Attachments 4 and 5. Mr. Curt Strandlund will continue to work with staff to satisfy all comments of the City Engineer, City Attorney, and staff during the platting process.

The main ingress/egress to and from the development is from 187th Lane and Ulysses Street. Ulysses will be extended approximately 300 feet to the north to access the new 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.

Park and trail dedication was paid in full during the Classic Commercial Park 1st Addition. As stated in the Developers Agreement executed on April15, 2006, *future subdivision of any part of the subject property will be exempt from additional park/trail dedication requirements* (Attachment 6).

Planning Commission recommends concept plan approval to the City Council for the proposed subdivision known as Classic Commercial Park 2nd Addition with condition as outlined in your packet.

Moegerle made a motion to approve the concept plan of Classic Commercial Park 1st Addition with the following condition: 1) All concerns of the City Engineer and City Attorney must be considered for the concept plan to move forward as a preliminary plat. Lawrence seconded.

Lawrence, "This is like a rough draft of what you are planning to do?" Strandlund, "This is

more than a rough draft, we are real close to the final product. Along with the need to extend the road, we will be having a new business come to the City of East Bethel." DeRoche, "There were seven concerns that the city attorney brought up, were those addressed?" Vierling, "In part yes. But they will all be addressed in the draft development agreement that will come back before you. I will work out the details with the planning department, the city engineer and certainly the applicant. You will see that back when you get the development agreement back."

DeRoche, "The stubbing to the properties, who is doing that?" Davis, "That is done as part of the sewer and water project." Moegerle, "Do you know how soon the future warehouse would be done? I assume that isn't part of the original." Strandlund, "Yes, that has been submitted to the city also. We are working through some of the engineering concerns." Moegerle, "And when would the addition be done?" Strandlund, "There will be 60,000 square feet right away. Within a minimum of five years the 40,000 would be added." Moegerle, "By approving the concept plan tonight, would the addition be already approved? Or do they have to come back before us with a new concept plan?" Vierling, "That will be one of the issues we will address with the developers agreement. Sometimes Councils want those matters to come back in front of you. There will certainly be other fees that will be generated by that building at that time, that addition. Usually it is an abbreviated review. We can deal with that with the planner, city engineer and applicant and come back with a recommendation on that." Strandlund, "We would like to have approval now that it could be expanded to 100,000. Vierling, "I am not saying there is any problem with that. It would be maybe driveway access, or some type of exterior things that Council may want to look at in the future." Strandlund, "If it can't be approved to 100,000 now, they won't be moving here. We have brought that in to the plan since the beginning, all along. They need to know that they can expand to 100,000. Vierling, "Nobody's saying they can't. Just that they may want a different design at that time." Strandlund, "The site plan would be allowing for the expansion." Vierling, "The use would be approved." Davis, "At the next council meeting the site plan, preliminary plan and final plat will be presented to council." Moegerle asked Strandlund, "Do you want me to amend my motion to approve the concept plan to allow the total 100,000 square foot building?" Strandlund, "That is why I am here tonight." **Moegerle amended her motion to include the 100,000 square foot building. Lawrence seconded the amendment. All in favor, motion carries.**

MCES Amendment #1 Castle Towers Construction Agreement

Jochum explained that November 12, 2010 the City entered into a Construction Cooperation and Cost Share Agreement with Metropolitan Council to construct the Phase 1 Project 1 Utilities. The Agreement identifies the cost share between the Metropolitan Council and the City for the project. The estimated cost for the Metropolitan Council identified in the original Agreement was $8,100,000. The attached Amendment No. 1 revises the total estimated cost share for Metropolitan Council to $8,700,000 based on the actual construction bid.

Staff recommends Council approve Amendment No. 1 to the Metropolitan Council Construction Cooperation and Cost Share Agreement.

Davis, "The initial agreement was the estimate, the final agreement will be what the bid was. The $8,700,000 is what the bid was." Moegerle, "Is this what was just approved recently?" Jochum, "This has nothing to do with that. This has to do with what they estimated the project to be prior to bidding and what the project really is." Moegerle asked Davis "How much is East Bethel ultimately going to bear? He told her 30%. I understand that to mean that is what our businesses and people that move into commercial corridor are going to pay." Davis, "61% Met Council and 39% City. It doesn't reflect any change in our bond payments.

Because we have the savings from redesign of water treatment plant. " Moegerle, "Are we going to pay 39% of the $600,000?" Jochum, "No, your agreement with them is basically done. More of a bookkeeping thing then anything to get the correct number in the agreement."

Lawrence made a motion to approve the MCES Amendment #1 Castle Towers Construction Agreement. DeRoche seconded; all in favor, motion carries.

Water Tower Color Selection

Jochum explained he handed out tonight basically an attempt to match the logo colors you have with three different backgrounds. You have color chart from Sherwin Williams, what is critical tonight is to pick the base color for the tower. We have probably a month to pick the colors for the logo or letters.

Moegerle, "As I recall, the lighter colors don't have to be repainted as frequently." Jochum, "They don't fade as much. If you went with a really bright color you can see the dullness quicker." Moegerle, "Asked is the paint going to be semi-gloss? What kind of finish will it be? The water towers we look at aren't all glossy." Jochum, "Actually I don't know that for sure, just assuming they are going to look like the color swatches here. " DeRoche, "We want something that blends in, don't stand out." Moegerle, "I was looking at the two very blue Wyoming ones. They don't blend with the horizon, they look cheesy. My thought to go with white tone. Try to blend it." DeRoche, "I like that Tannery color. Is a Sandhill Crane. We want to try and blend. White will stick out like a sore thumb." Lawrence, "How about Cylinder Cream?" Moegerle, "I marked Pillar White. Filament. You like with more of brown in it?" DeRoche, "More rural looking, more looks like it belongs in the woods."

Lawrence made a motion to approve the color Filament from the Sherwin Williams Color Chart provided for the base color of the City Water Tower. Moegerle seconded; all in favor, motion carries.

Castle Towers Wastewater Treatment Facility Corrective Action Plan

Jochum explained this item was discussed at the April 18, 2012 Council meeting, the City has been issued a Notice of Violation (NOV) by the Minnesota Pollution Control Agency (MPCA) for the Castle Towers Wastewater Treatment Facility. We have until May 4th to submit an action plan.

In general what we are proposing to do is as follows:

1. Abandoned bed No. 1 – All sludge will be removed from bed No. 1. The splitter ball valve will be removed and a blind flange will be installed.

2. All vegetation will be removed from beds No. 2, 3 and 4.

3. A 2 x 8 treated wood cap will be installed on the top of all dike and divider sections.

4. The vertical plywood on the dike and divider sections will be inspected. Any damaged plywood will be replaced.

5. It is not anticipated that the PVC liner on the bottom of the beds has any damage and still functions as designed. The liner will be visually inspected in four locations in beds No. 2, 3 and 4.

Staff estimates that the repairs to the sludge drying beds will be approximately $2,000.

Staff recommends that Council approve the draft Corrective Action Plan and further authorizes staff to submit the plan to the Minnesota Pollution Control Agency for approval.

DeRoche made a motion to approve the draft Corrective Action Plan as noted for the Castle Towers Wastewater Treatment Facility and authorize staff to submit the plan to the Minnesota Pollution Control Agency (MPCA) for approval. Lawrence seconded.

Moegerle, "All the vegetation will be removed from the beds. I thought that would help dry more?" Jochum, "Some of these are small roots." Davis, "These are small saplings growing in there, more of a housekeeping item." DeRoche, "Does this look like something the MPCA can live with?" Jochum, "I think so, he didn't give me any idea what he wanted us to do." Moegerle, "Can the $2,000 come out of the bond money since this is sewer wastewater related?" Davis, "It probably couldn't since this is going to be decommissioned. This is a charge that is going to have to be made against the sewer plant." Moegerle, "Have we approved decommissioning it?" Davis, "Yes, we approved that." Vierling, "If something should change in that before the end of the year, you could always do a budget transfer. Make your adjustment there." Moegerle, "Do we want a not to exceed on this?" Davis, "The biggest expense would be just removing the sludge in the drying beds. I am comfortable with that number." A**ll in favor, motion carries.**

Wildland Fire Grant

Davis explained the Minnesota Department of Natural Resources has opened the application period for matching Fire Department Grants through June 1, 2012. This Grant Program has been designed to assist Fire Departments with the purchase of equipment through a 50% matching formula. The Fire Department would like approval to submit a proposal for Wildland (Grass Fires) Fire Fighting Equipment. This equipment will include coveralls, helmets and water cans (or spray cans). The total estimated cost for this equipment will be $7,500. The 50% City match will be $3,750. This amount will be paid from the Fire Department Operating Budget; item 214 (clothing and Personal Equipment) and item 231 (small tools and minor equipment) in the FY 2013 Budget.

The matching funds required for this proposal is 50% of the total cost, estimated at $7,500. The City match is $3,750.

Staff recommends consideration for direction to the Fire Chief to prepare and submit a DNR Matching Fire Fighting Grant application by June 1, 2012.

DeRoche made a motion to direct the Fire Chief to prepare and submit a DNR matching Wildland Fire Grant application by June 1, 2012. Moegerle seconded. DuCharme, "This is a good program and I did meet with the DNR in Grand Rapids. We do have a good chance of getting the grant. Maybe not the full $7,500." Moegerle, "Is this competitive, or is this grant?" DuCharme, "Yes and no. They try to make it available to all the fire departments (over 800 fire departments). 400 fire departments will apply and 250 will be granted. So it is kind of watered down, and they try to rotate it so one fire department is not getting it every year. **All in favor, motion carries.**

Update on Shared Services Fire Committee (Bethel, Nowthen, Oak

The Fire Chief will report on the discussions between some our neighboring Cities in their talks to form a Fire Protection District.

DuCharme, "I have not been to any formal meetings of the shared services. Our western neighbors Bethel, Nowthen, Oak Grove and St. Francis and Ramsey have been in talks. They first started talks back in October of last year. In the mid 1990's East Bethel led the charge of

Grove, Ramsey and St. Francis)

looking at a fire district. It resurfaced again in 2003 with some formal discussions. At that time Ramsey was not part of the equation.

The committee that has been doing the study has been meeting on a regular basis. I had an opportunity to talk to Oak Grove and Ramsey Fire Chief about their progress. They have decided to have one more meeting, next week and at that time, they will go back to their Council's and they will decide if they wish to further the study. The study has been what is the best concept to put the fire departments together. What is the benefit of doing it. Very little talk about formulas and cost to member cities.

One thing I do bring out to Council here is any time someone gets involved looking at a fire district, that doesn't necessarily happen. Some savings are 10-15 years down the road. At best it is a way for cities to control cost growth. Right now the formulas they have talked about looking at are using population, call area, market conditions (tax capacity) and so forth. I think the committee has done a very good job at looking at everything. Now I think the Council's have to decide what the benefit is. There have been talks about not doing a fire district, but sharing other things, training, administration, box alarm types of service. As it has said before, he has not been to the meetings, this is all hearsay. I did find today the report they issued and that was on the website of Oak Grove. Glad to send to the city administrator to share.

DeRoche asked DuCharme, "What do you think of this idea?" DuCharme, "There are so many variables putting fire department together, from fire relief associations, which are pensions, to just cultural thing, sometimes better to start off slow. Maybe start off sharing training items; administrative side, call reports. And look and see how it goes. In the volunteer fire fighting world, most of them want to go to emergency calls. If you can ease away from administrative things, they are a lot happier. I believe there is a model out there where fire departments can stay pretty much independent and can share services that way."

DeRoche, "Almost like the disparity thing we were talking about earlier. We have "X" amount of equipment, etc, our guys are used to this and then you get a community that doesn't have a whole lot and if things break who is going to fix it?" DuCharme, "That is right."

Davis, "The main reason asked I asked DuCharme to present this tonight is in case anyone had any questions because we were not invited to consider joining this association, which doesn't bother me one bit. The other thing is when you consider these things, everybody would be contributing all their assets to this. In the long run there could be some savings. In the short run, I don't think there is a whole lot there. DeRoche, "Well we do mutual aid anyway." DuCharme, "We do quite a bit of mutual aid." Davis, "That is the other thing to consider, we do mutual aid with all these other departments." DuCharme, "We are looking at Forest Lake and Isanti."

Moegerle, "I understand you are trying to staff the fire barn at the beach." DuCharme, "We plan to recruit there." Moegerle, "My concern is that there not be turf war over fires. I suspect Fire Chiefs have possessive ideas about their fire fighters and how do you get those to mesh?" DuCharme, "Anoka County Fire Chiefs have been working very hard to start an Anoka Fire Academy. This fall it will be ready to accept and train new fire candidates. You are right. When we get into individual training, we set our curriculum a year at a time. Some of the territorial things have eased off." Lawrence, "On the overall of how the fire department is doing, how are we doing on that? For response and training?" DuCharme, "I

would give them an "A" for training and for response you have to give them an "A". For competency, if you don't give them an "A- or A" they are very, very good at what they do. Remember we train a lot on fire stuff and medical stuff. Seventy percent of our calls are medical calls. We work well with the DNR, auto-aid agreements work well. I think this is one of the premier fire departments." Lawrence, "I think this has some value to it, it just takes some research on how to put it together."

Ordinance 35, Second Series, Amending Chapter 18, Article IV Regulating the Sale of Tobacco

Davis explained these proposed Ordinance amendment would amend Sections 18-180 and 18-181of the Code of Ordinances of the City of East Bethel as submitted in the attachments and remain consistent with Council directives as to the administration of penalties and fines under the ordinance. There may be additional corrections recommended by the City Attorney.

Staff recommends City Council consider the approval of the amendments to Chapter 18, Article IV, Section 18-180 and 18-181 of the City Code as presented in the attachments and direction to publish.

Moegerle made a motion to adopt Ordinance 35, Second Series, Amending Chapter 18, Article IV Regulating the Sale of Tobacco. With the following amendments, 18-181 sub. A. 1 substitute the word may for shall, sub. A.2 substitute the word may for shall, same for the third violation within 24 months, substitute the word may for shall, delete paragraph four as being redundant with the hearing ordinance we passed at the last meeting, and paragraph five and possibly six. Lawrence, "So are you deleting paragraph six or not?" Moegerle, "It seems to me it needs to be rewritten. It is under subsection a, so I think it should be deleted." Vierling, "It reflects back upon the staged penalties one, two and three above. More in the fashion of being all inclusive with regard of what could be coming in front of you. But if your motion is to delete four and five anyway, I understand your motion to delete six." Moegerle, "Because four and five are in the hearing ordinance." Vierling, "There is a provision for community work service in the hearing ordinance, this ordinance also has a provision with regard to completion of that. I can see some overlap there, but I don't see it as being a problem."

Moegerle, "I am looking at our hearing ordinance which talks about how community service is performed, isn't that essentially what number four is?" Vierling, "Essentially yes." Lawrence, "Whether it is there or not, does it make a difference?" Vierling, "I don't see it as a problem. It is duplicating the provision, it is not conflicting with another provision." Moegerle, "That is my point, removing duplication." Lawrence, "Duplication can be a problem, because then if it gets amended, they both might not get amended." **Lawrence seconded.** Moegerle asked, "And do you understand my motion to be to delete number six or amend number six?" Lawrence, "Amend number six." Vierling, "What are you amending it to?" Moegerle, "Change to **in addition to any other penalty**." Vierling, "Can we strike as listed in subsection a and put **Impose under the code."** Moegerle, "I would have put a period after penalty but I will agree to impose under the code."

Lawrence, "If the word "shall" is in place, that doesn't it mean it is mandatory?" Vierling, "Yes it does. We do have the words up to in there. Changing the wording from "may" to "shall" doesn't change the application of the ordinance at all. Other than under the old "shall" you had to have a fine, but fine was up to $150 for first violation. Now it says you may have a fine or you may not. The last discussions we had at Council, you wanted to have the opportunity of whether or not to assess." Moegerle, "That is why "may" does better." Lawrence, "In the reading of penalties, whether it says "may" or "shall", on the second or third you are going to have a penalty." Vierling, "I am a little concerned, (although we

haven't seen a lot of these), consistency is important as well. If there is a lot that come in and some get fined and some do not get fined, concern that Council is having a pattern of being inconsistent. That can create more problems than anything else. That concern is if the Council chooses not to fine individuals anything, staff would be concerned." **All in favor, motion carries.**

Ordinance 37, Second Series, Amending Chapter 6, Alcoholic Beverages

Davis explained this proposed Ordinance amendment would amend Section 6-93 of the Code of Ordinances of the City of East Bethel as submitted in the attachments and remain consistent with Council directives

Consider adoption of Ordinance 37, Second Series, An Ordinance Amending Section 6-93 of the Code of Ordiannces of the City of East Bethel, Affecting Administrative Fines and Penalties and direction to publish.

DeRoche made a motion to adopt Ordinance 37, Second Series, An Ordinance Amending Chapter 6-93, Alcoholic Beverages as submitted. Lawrence seconded.

Moegerle, "Would you accept an amendment keeping with the prior one, because will and shall are the same. So change the word will to may because will and shall are parallel." DeRoche, "I think alcohol violations are a little more serious." Lawrence, "You always have the option of **"You will get a fine up to $500.**" Which is giving you your may and I think alcohol is a more serious offense." Moegerle, "I will accept that. Under the hearing ordinance that we passed at the last meeting, payment of fines says, "Unless other provided in this code, or provided in a provision by a hearing officer of court, all fines are due and payable fourteen days…" The question is do we want to give these people another six days to pay this?" DeRoche, "I think that should be left up to staff. If someone asks for an extra week, I don't see a problem with that, because coming up with money for some people can be a challenge." Vierling, "Provision also says not later than twenty days later." Moegerle, "And the other section says fourteen days or as otherwise specified. So do we want to specify in this? Because this doesn't give us the flexibility, it is a maximum of twenty days. The hearing ordinance gives us flexibility."

DeRoche, "Question he has about hearing officer, and maybe he read it wrong, but it also came out in the paper. If he says something, and they don't like it they have to take it to the district court. So that takes it out of our hands. If the hearing officer says one things and somebody doesn't like it then they have to take it to the court so that nixes us, right?" Moegerle, "If case was on appeal, but on some of these we would be the hearing officer." DeRoche, "I know, but I am looking for clarification ". Vierling, "In those matters where the hearing officer was the final authority, he would be the end of the road. In those matters where he would be the recommending authority, you would have the final review." DeRoche, "How do you delineate those matters. Say this case we have coming up. If we have one it is probably a pretty serious matter, think the Council should be able to, explain to me." Davis, "Correct me if I am wrong, but retention of a hearings officer the Council would specify." Vierling, "It depends on the nature of the violation. Petty type of offenses, liquor violations, those you will have come back to the Council. If you want to go over the twenty days, there would be nobody that would be aggrieved by it, from a practicable standpoint, other than the City." DeRoche, "If you go to court and can't pay a fine, they are usually pretty reasonable about that." Moegerle, "That is why she was suggesting we delete that paragraph five and go by the hearing ordinance. The other question she has is the community service in this ordinance." Vierling, "This section was in your former code and when you folks went over this last time, it has very strict provisions for the number of hours to be

served. Moegerle, "I was looking at the second paragraph, not at the 20 hours one, "who is not a natural person, performed by a managerial employee". But I see what you are saying, I withdraw that one.

Vierling asked does the existing motion provide for repeal of paragraph five. **DeRoche amended his motion to repeal paragraph five. Lawrence seconded the amendment; all in favor, motion carries.**

Ordinance 38, Second Series, Repealing Sections 18-180 and Subpart (c) and (d) of Section 6-93 of the Code of Ordinances for the City of East Bethel

Davis explained this this proposed Ordinance repeals Section 18-180 and Subpart (c) and (d) of Section 6-93 of the Code of Ordinances for the City of East Bethel. This is recommended by the City attorney.

Staff recommends City Council consider the approval Ordinance 38, Second Series, Repealing Section 18-180 and Subpart (c) and (d) of Section 6-93 of the Code of Ordinances for the City of East Bethel and direction to publish.

Vierling, "This is very much a housekeeping item. When you passed these ordiannces you didn't repeal these sections. So now we are just coming back and asking you to repeal those two sections."

Moegerle made a motion to adopt Ordinance 38 Second Series, Repealing Sections 18-180 and Subpart (c) and (d) of Section 6-93 of the Code of Ordinances for the City of East Bethel, and direction to publish. DeRoche seconded, all in favor, motion carries.

Council Reports – DeRoche

DeRoche, "Fire Department meeting next Monday and Road Commission meeting next Tuesday. The lake is still down. Talked to Kate Drewy from the DNR. I have concerns and I know it is getting lower than it should be. I was told the pipes are the ones that were put in on originally. And I said that is fine, but they were put in there in 1949 I don't think they are the same."

Council Reports – Moegerle

Moegerle, "We had mediation on Friday, I think that turned out to be very successful. I really want to talk about the vision thing. We have spent time and money, included volunteers, included commission members in looking at what we want to do in this EDA. The clock is ticking. We need to get people interested in moving to East Bethel. Everything I have read on economic development has said, "You must be bold." I have an e-mail I want to send to you from an article in 2009 from North Carolina, but they are saying, "You need leadership, to assume risk." One of the good things is whatever risk we assume, whatever monies we spend, whatever decision we make will never be as bad as what has been made to put us in this position."

The time has come to say, "What is our vision and what is our identity?" It is ultimately going to come up to us here to have leadership. What I do see with regard to our vision is it doesn't change who we are, but we take control of how people see us. I think we have gotten to the point where we need action and we can line up a whole bunch of visions and say, "We just need to pick one. This one captures who we are best." I think we also need to decide what are the bold moves that are going to get the attention of those folks. It is not going to be easy. There are not going to be signs, and there are not going to be anything that is going to say, "This is the best thing to do." I am asking you to get ready to buckle down to make some tough decisions.

DeRoche," I can see being bold and decisive, it sounds wonderful. We've been busting our behinds trying to do this. There is no quick fix. It takes more than us five to do this. It's got to be a vision of everyone that lives in this city. Moegerle, "We are not a democracy, we are a republic. How are we going to get everybody to key in on this? We couldn't get all of them to do a survey. I agree with you."

DeRoche, "I don't want it to turn into Heidiville, Bobville or Richardville, or Anyville. I don't want to run the risk, this sewer district was put together, and it is like a jigsaw puzzle. We have certain commitments we have to make in that part of town that we have to make and I don't want to fulfill that in dire need, I want to do that with a lot of thought. I can't just do something to do it and make it look good. Personally, I cannot vote for something that will make someone money that will not benefit the City as a whole."

Moegerle, "Personally, I think having a vision accomplishes what you are saying. How are we going to attract businesses along the infrastructure corridor if they are not going to make money. Then they are not going to come." DeRoche, "Who says they are not going to make money? If we are going to bend over backwards to bring a business in here, they are going to make money. The citizens of East Bethel are still going to be paying out and out and out and out and out and out. We are in such a precarious situation. We have to somehow bring in business and remember to defray the costs of this system.

Lawrence, "One thing we can say is we have made that bold move by running the forcemain up to Castle Towers. This opened up the entire City of East Bethel to economic development. Moegerle, "And the good thing is we saved that 4.4 million dollars so we could do it. Lawrence, "I had a comment from a resident today and he was upset that we went ahead in February to continue the project. I explained to him that it was 10 million that we would have had to pay back. It was more money than the citizens of East Bethel would want to pay to stop that project. It wasn't so much stopping it from the contractor standpoint, it was retracting the bonds. Hopefully he understands that more clearly. The project itself was not real well thought out, but I think we have done our best to make the project more workable including doing advancement on the east side to bring businesses to East Bethel. Because once we start brining businesses in, it will start paying for itself.

Moegerle, "Every new business that comes in, we have to be selective. We get ERUs, the tax value goes up. DeRoche, "I understand that. But, I have had a conversation with the city administration and said, "At what point do we lose control of the planning? To say, that is not what our vision is, not what our plan was. So now we have to do some changing of things to make sure that doesn't happen." Moegerle, "I agree, but we don't have a vision. What I am calling for is people submit what their vision is of the City. We are not going to get 11,626 visions in. But then we are going to have to decide. This is the vision. We re going to have to change B-3 because we don't want funeral homes in the corridor. Okay."

DeRoche, "We have to somehow talk to people." Moegerle, "We have to do it within thirty days. It comes to us to say, we thought enough. We have all these visions together, now we have to make a decision. Lets light a fire under Council, and get this thing moving." Lawrence, "I think what is real important is the people in East Bethel, local or on vacation, help us out and let us know what you want to see. Or we will make the decision and you will get what we decide." Moegerle, "Maybe residents can send e-mails to the City Administrator "This is what I would like to see." Lawrence, "We are working very hard to accomplish everything people need." Moegerle, "We need a full Council to get this done."

Council Reports - Lawrence

Lawrence, "We do need a full Council, it's hard when just three of us. As far as the marketing and branding we talked about and trying to get identity. I ran across some lighting; LED lights are becoming very popular. They are little more money but just a better lighting system. I think by having our businesses look at LED lighting on the outside get more direct vision soft lighting, could be a good start in the green area of East Bethel by to replace LED on businesses and such. On note of working very hard, tabulated up I attended over fourteen meetings and averaged over three hours a meeting. Unfortunately, I missed one yesterday because I was just too tired to go. But I really do enjoy the job.

Closed Session – LMC Claim

Vierling explained that for the benefit of the public and the public record, Council has recommended we go into closed session with Counsel from the League of Minnesota Cities, per Minnesota Statute 13D regarding a claim relative to Employment filed by Larry Martin. 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 the with Counsel from the League of Minnesota Cities (LMC) the issue relative to Employment filed by Larry Martin. Moegerle seconded; all in favor, motion carries.

Vierling explained the Council has concluded the closed session dealing with the Employment Issue. Attending were Counsel from the LMC Pat Beety, Council Member DeRoche, Council Member Moegerle and Mayor Lawrence. Also attending were Jack Davis, City Administrator and myself, City Attorney. Matters were discussed in regard to strategy and issues presented during the course of mediation, no motions were made or taken by the Council at that time.

Moegerle make a motion to adopt the settlement terms that were discussed in closed session as recommended by Special Counsel. Lawrence seconded; all in favor, motion carries.

Adjourn

DeRoche made a motion to adjourn at 9:40 PM. Moegerle seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk