

EAST BETHEL CITY COUNCIL MEETING

MAY 18, 2016

The East Bethel City Council met on May 18, 2016, at 7:00 p.m. for the regular City Council meeting at City Hall.

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

ALSO PRESENT: Jack Davis, City Administrator
Mark Vierling, City Attorney

1.0 The May 18, 2016, City Council meeting was called to order by Mayor Voss at 7:00 p.m.

Call to Order

2.0 The Pledge of Allegiance was recited.

Pledge of Allegiance

3.0 **Harrington stated I'll make a motion to adopt tonight's agenda and under Other, I'd like to add a Closed Session for Union Negotiation, Minnesota Statute 13D.03, subdivision 1b. Ronning stated I'll second.** Voss asked any discussion? All in favor? **All in favor.** Voss asked opposed? That motion passes. **Motion passes unanimously.**

Adopt Agenda

4.0 Presentation

4.0A Sheriff's Department Monthly Review

Commander Shelly Orlando presented the April 2016, Sheriff's Report, reporting on five DWI and one 5th Degree Possession of Controlled Substance arrests. Orlando also warned residents about telephone scams and crimes of opportunity and asked all to be mindful of quality of life issues such as barking dog and loud music nuisances. She noted that during warmer weather, people like to sleep with windows open and sound does travel, especially in the quiet of night.

A resident stated she has a complaint about dogs that bark constantly. Orlando advised that when you have an issue with a barking dog and are not comfortable talking with the dog owner, you can call to make a complaint with the Department or CSO and typically they will make contact with the dog owner. If it is a continual problem, the owner can be cited for allowing that nuisance. Voss stated sometimes it only takes one contact from the Sheriff's Department to resolve that situation. He encouraged residents to not be afraid to call the Sheriff's Department on barking dogs.

4.0B Fire Department Monthly Review

Davis reported that Fire Chief Mark Ducharme's wife passed away Saturday and encouraged all to keep the Ducharme family in their thoughts and prayers.

Davis referenced the Fire Department report, noting they answered 41 calls in the month of April with 27 being EMS calls. Of the 27 EMS calls, 26 were transported by ambulance. The Fire Department also conducted six fire inspections of commercial properties during the month of April. Davis indicated that Chief Ducharme, upon his return, can answer questions anyone may have. During Chief Ducharme's absence, Assistant Fire Chief Artie Anderson is taking his place.

5.0 Public Forum

5.0 Public Forum

Dave Landis, 1747 237th Avenue NE, stated he wanted to talk to the Council in case it was thought the residents had changed their minds about the CST project. He stated he has lived there for about ten years and through this process, has come to realize what a neat neighborhood they have, full of wonderful people. Ironically, he thinks it may be one of the

CST

denser neighborhoods in the whole City. He asked the Council to take that into consideration should any be still inclined to think it fits in that location. Mr. Landis invited the Council to spend some time in their neighborhood to see what they have, adding it would be a travesty to put CST there. He noted the Commander had mentioned that people like to have their windows open at night and be free of noise, which would certainly destroy that possibility for their neighborhood.

Mr. Landis stated a home on Davenport was listed on the market this week and the disclosure statement includes an item saying, 'Other defects, material facts. Are there any other material facts that could adversely and significantly affect an ordinary buyer's use of enjoyment of the property or any intended use of the property?' And it says, 'Talk of industrial plant motion coming in on 237th east of East Bethel.' He stated disclosures generally are because it's detrimental and it's mentioned in here which makes the point for them that CST would definitely adversely affect their properties. Mr. Landis again invited the Council to visit their nice neighborhood, stating they want to keep it that way.

Voss stated in over 20 years of being involved with the City, there have been issues in the past where neighborhoods have come together because of issues, which perhaps is the 'silver lining' in this type of situation.

Dave Krepis, 23050 Gopher Drive NE, stated he is trying to determine the size of the proposed mulch piles, noting the engineer had said the piles will be smaller in size. Voss clarified that the Council has not been presented with anything yet. Mr. Krepis referenced information from the April 26th Planning Commission packet. He noted the March 1, 2016, Planning Commission packet contained a map showing the pile size as 37,000 square feet each for two piles, which comes up to 74,000 square feet. Mr. Krepis stated the new Planning Commission information says the proposed site plan indicates that there will be four mulch storage piles and that per the Fire Code, mulch piles cannot exceed 25 feet in height, 150 feet in width, and 250 feet in length. Mr. Krepis asked if that is correct for each pile. Voss clarified that is the limitation, not the CST proposal. Davis confirmed that is the case and would be the maximum size allowed.

Mr. Krepis stated if going with those sizes, the piles can be 37,500 square feet but the engineers said it was supposed to be smaller than shown in the March 1 information. However, now they are bigger by 500 square feet and they added two more piles, coming out to 150,000 square feet compared to 74,000 square feet on the original proposition.

Davis explained it went to four piles is because of the Fire Code and requirement for additional access lanes in between the piles. He stated the Fire Code establishes a maximum extent but the City has not received the proposal on the actual sizes.

Voss noted Mr. Krepis is comparing their original proposal to a standard allowed under the Code, not to what CST is proposing. Davis explained the original two piles proposed were each divided in half so it does not appear to be much difference in the square footage. In addition, the applicant would have to comply with the Fire Code requirements.

Mr. Krepis again reviewed the square footages indicated on the site plan and in the wording, suggesting it comes out to 150,000 square feet for the four piles, meaning each pile is bigger by 500 square feet. Davis stated that will be looked at and in the final proposal, the application will need to be specific as to square footage. The City will assure the application stays within the confines of the Code and what is shown on the site plan. Mr.

CST

Krepis stated if allowed at 150,000 square feet, that is the size of three football fields by 25 feet high. Davis clarified there is not a discrepancy as one is talking about a standard and the other talks about what CST is proposing to do.

Voss restated CST has not proposed four piles of that size. Davis stated CST has submitted a site plan that shows four piles that are equivalent to the two piles originally shown. He explained if CST wants four mulch storage piles at the maximum allowed by the Fire Code for each one, then the area would be significantly increased, which they are not showing. He stated CST would not be allowed to do anything that is not consistent with the site plan CST provides to the City.

Krepis asked if CST will only be able to use 37,000 square feet total. Davis restated that what is shown on the site plan is what they will be limited to. Krepis asked no matter how many piles they have. Davis answered that's correct.

Harrington asked if there is an update on the Environmental Assessment Worksheet. Davis stated he has not heard anything and the 'ball is in their court' so he assumes the CST consultant is in the process of preparing that at this time.

Tom Jesberg, Waconia Circle, asked whether CST is a done deal. Voss answered it is not. Mr. Jesberg stated he does not understand why this is even an issue as the site is surrounded by residential areas so it seems inappropriate. Mr. Jesberg suggested CST go by CR22 and TJH65 where there is nothing and asked why the Council pushing this. Voss clarified no one from the City is 'pushing' this and as all in the room know, the Council has not been presented with a plan that has been worked through by staff and gone to the P&Z.

Jesberg stated considering the neighborhood opposition, he does not understand why CST is not told to go someplace else. Voss explained the City cannot do that. Jesberg expressed his frustration and asked the Council to follow what the people in the area want.

**6.0
Consent
Agenda**

- Item A Approve Bills
- Item B April 27, 2016 City Council Special Meeting Minutes
- Item C April 19, 2016 Town Hall Meeting Minutes
- Item D Acceptance of Class 5 Bid Results and Authorization to Proceed

Harrington stated I'll make a motion to adopt tonight's Consent Agenda. Ronning stated second. Voss asked any discussion? All in favor? All in favor. Voss asked opposed? That motion passes. Motion passes unanimously.

**7.0
New Business**

Commission, Association and Task Force Reports

7.0A
Planning
Commission

None.

7.0B Economic Development Authority	None.
7.0C Park Commission	None.
7.0D Road Commission 7.0D.1 2017-2021 Roads CIP	<p>Davis presented the 2017-2021 Roads Capital Improvement Program and recommendation of the Roads Commission to prioritize street improvement projects over the next five years. The recommended street maintenance projects for 2017 are estimated to cost \$128,500 and include the chip sealing of the Sunny View Addition (1st and 2nd), DeGardner's Addition, and Ned Lake Addition. For 2017, the Road Commission has not recommended any Minnesota State Aid (MSA) projects due to the advanced funding that will be required to complete the service road that will connect 187th Avenue to Viking Boulevard. This project is anticipated to commence in 2016 and be completed in 2017. All of the City's MSA annual allotment will be required for this project in 2017 and 2018 and approximately \$290,000 will be required from the 2019 allocation.</p> <p>Davis explained that even with the commitment to Phase I Service Road Project, the City would still have the capacity to advance fund beginning in 2018 an amount up to \$1.6 million for the next phase of our service road plan. Commitment to this plan requires the dedication of funding for 2017 only. Projects beyond 2017 are identified and prioritized by the Roads Commission to provide Council with recommendations for 2018 through 2021 as part of the overall capital project planning for major street improvements. <u>Commitment to projects beyond 2017 will be considered for approval as part of each year's subsequent budgets.</u></p> <p>The estimated cost of the Street Capital Projects in 2017 is projected to be \$128,500. This amount is available from dedicated sources in the Street Capital Fund. The MSA project for 2017 is the continuation of the 2016 Phase I Service Road is also included. The Road Commission and staff recommend approval of the 2017-2021 Streets CIP.</p> <p>Harrington stated I'll make a motion for approval for the 2017-2021 Streets CIP. Koller stated I'll second. Voss asked any discussion? All in favor? All in favor. Voss asked opposed? Hearing none, that motion passes. Motion passes unanimously.</p> <p>Mundle asked if there are plans to pave the dirt roads. Davis answered the Roads Commission has briefly discussed that and will be looking at whether the City can incentivize that work but at this time, there are no City plans for paving gravel roads unless petitioned by property owners on gravel roads.</p>
8.0 Department Reports	None.
8.0A Community Development	
8.0B Engineer	<p>Davis presented the recommendation of the Roads Commission to approve plans and specifications as prepared by the City Engineer and authorize solicitation of bids for the 2016 Street Surface Improvement Project. The project will consist of overlaying the streets</p>

8.0B.1 shown on Sheet 1 of the plan set. Alternate bids will be taken for overlays on the City Hall
 Plans & Specs parking lot and the parking lot at Fire Station No. 2.

2016 Street Imp. Project Res. 2016-22 Davis stated the estimated cost of this project is \$794,400. The Streets Capital Improvement Plan has set a budget of \$871,000 to be spent on overlays in 2016. As discussed the parking lots will be bid as alternates to allow for some flexibility in establishing the final contract amount based on the actual bids. Bids will be opened on June 10, 2016. Bids will be presented to the City Council at the June 15, 2016 City Council meeting. A completion date of September 30, 2016 has been established in the Contract Documents. This project will be financed with the City’s Street Capital Fund. Funds are available and appropriate for this project.

Ronning stated move to approve Resolution 2016-22 Approving Plans and Specifications for the 2016 Street Surface Improvement Project and Direction to Solicit Bids. Koller stated I’ll second. Voss asked any discussion? All in favor? All in favor. Voss asked any opposed? That motion passes. Motion passes unanimously.

8.0C City Attorney None.

8.0D Finance None.

8.0E Public Works None.

8.0F Fire Department None.

8.0G City Administrator Performance Eval. & Employ. Agreement Davis presented the staff report, indicating as provided in the City Administrator’s Employment Agreement, the City shall conduct a review of the Employee's performance on or before August 1st of each year or at another date as may be agreed upon by the employee and the City Council. The City Attorney prepared the evaluation questions, collected and collated the Council responses and facilitated the previous performance review, which was conducted on June 23, 2014.

As an additional item, the employment agreement for the City Administrator will expire on December 31, 2016. There was discussion during the previous contract extension that this process should be scheduled for review six months into the term of a new City Council. There would be no objections to that timeframe should that be the preference of this Council. Should Council desire to pursue this time line, the current agreement would need to be extended for a time that would accommodate the review process. However, from a budgetary preparation standpoint, the preference would be a consideration of a contract decision prior to the approval of the preliminary 2017 Budget on September 7, 2016.

A new agreement, assuming that is the choice of the Council, would be proposed to commence on January 1, 2017, and continue until December 31, 2018, or until otherwise terminated pursuant to the provisions of the contract. Funds for this position have been recommended in the 2017 Budget draft. It is requested that a date be scheduled for the employee review with authorization to the City Attorney to facilitate the performance evaluation and, upon a satisfactory finding, a time be set for the discussion of the employment extension agreement for another two-year term.

8.0G.1
Performance
Eval. &
Employ.
Agreement

Mundle asked whether the Council needed to conclude union negotiations prior to this consideration. Davis stated they do not as it is a totally independent consideration. Vierling indicated the June date works for his schedule.

Voss stated he understands waiting for the next Council to decide whether or not to renew the contract but by the same token, there could be three new Councilmembers in January that may not be familiar with Davis' performance over the past several years. Voss stated he is inclined to deal with review of past performance and contract extension now. Vierling explained there are both past and future aspects as the Council is required under the contract to provide a review, as for any employee, and an opportunity to look at the aspects of the contract and whether to establish performance goals.

Voss stated I'll move to authorize the City Attorney to move forward to facilitate a performance evaluation for the City Administrator. Mundle stated I'll second. second. Voss asked any discussion? All in favor? All in favor. Voss asked opposed? That motion passes. Motion passes unanimously. Voss stated the contract extension will be discussed after the performance review is completed.

8.0G.2
Castle
Towers
Decomm.
Report

Davis presented an update on the Castle Towers Treatment Plant Decommissioning Project as detailed in his written report. It was noted that to date removal of the biosolids has cost \$33,000 and it is estimated that the liner removal and disposal will cost approximately \$30,000. The low bid costs for these two items when the project was previously bid was \$246,499. To date removal of the bio solids and the liner has cost \$63,000, which has resulted in a comparable savings of \$183,499 to the bid prices for these phases of the work.

Davis stated the remaining work required to comply with the MPCA requirements includes the removal and disposal of all underground piping and structures, the bunker, the chlorine contact chamber and site grading and restoration. Removal of the treatment building is optional but the City will demolish this structure to complete the site restoration and eliminate a potential attractive nuisance on the site. City staff is in the process of obtaining bids for this work and will evaluate these costs and determine the most cost effective means to finish the final phase of the project. Once this project is completed, this ten-acre site then can be sold for redevelopment use. It is anticipated that a sale of the property will far exceed the reclamation costs of the site. The total low bid for this project, when the project was bid last year, was \$505,527. The estimated total costs of the entirety of decommissioning, at this time, should not exceed \$120,000.

Davis noted the costs are well on target for being under the original goal and exceeding expectation to date. He does not anticipate any major issues in the completion of this project. Voss noted the City saved \$385,000 on the project, and it was staff with the City Engineer who came up with these savings. Davis stated that is correct and he gave a good compliment to the City Engineer and Public Works Director last time and his 'hat' is still off to them as they are doing a fantastic job on this. The Council agreed.

Informational; no action required at this time

9.0 Other
9.0A
Staff Reports

Davis recommended canceling the Council Work Session scheduled for May 25th and scheduling a Work Session on June 8th to allow coordination with the Planning Commission to meet jointly and discuss potential changes in the Light Industrial Zoning District. Mundle stated he will check his schedule for June 8th and let Davis know if he's available.

9.0A
Staff Reports
Cancel May
25 and
Schedule
June 8 Work
Meetings

Voss stated at the EDA meeting on Monday, there was discussion about a framework for changing the ordinance section dealing with Light Industrial. The EDA provided some comments so it was suggested that be provided to the Planning Commission. Voss stated it has worked well in the past to hold a joint Work Meeting between the City Council and Planning Commission to discuss potential ordinance changes.

Davis stated he will poll the Planning Commissioners prior to their meeting so they will be aware of this issue. It was noted that more than one meeting is required to amend the ordinance including a public hearing by the Planning Commission on May 24th.

Mundle stated make a motion to cancel the May 25th Work Meeting. Ronning stated second. Voss asked any discussion? All in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

The consensus of the Council was to schedule a Work Meeting on June 8th if the Planning Commission provides a recommendation at its May 24th Meeting to amend the ordinance relating to the Light Industrial Zoning District.

9.0B
Council
Report –
Member
Harrington

None.

Council
Member
Ronning

None.

Council
Member
Mundle

Mundle reported on the EDA meeting to consider staff suggestions to change the ordinance relating to the Light Industrial District. The EDA provided some suggestions that will be presented to the Planning Zoning for recommendation to the City Council.

Council
Member
Koller

Koller reported on the Roads Commission meeting to consider the road improvement projects.

Mayor Voss

Voss asked about the schedule for the video system technology update. Davis stated that work is scheduled after June 8 and will be completed prior to the next Council meeting.

9.0C
Other

None.

9.0D
Closed
Session
Union &
PINs
29-33-23-34-
0001 and
#29-33-23-33-
0002

Vierling stated thank you Mr. Mayor. For the benefit of the public and for the record, we'd note that the Council is about to go into Closed Session to review three items allowed under Minnesota Closed Session and Open Record Law, which is 13D. They are matters of union negotiation and contract negotiations with the City's union. We will also be reviewing two aspects of real estate interest acquisition in properties identified as: Property Identification #29-33-23-34-0001 and #29-33-23-33-0002. The Closed Session will be tape recorded as is required by law. The Council will return to Open Session after having concluded the Closed Session and a summary of any action taken will then be identified. With that being said, Mr. Mayor, I recommend that a motion be made to go into Closed Session for the purposes I've indicated.

Move to
Closed
Session

Mundle stated make a motion to go into Closed Session at 7:40 p.m. for the purposes that City Attorney's indicated. Harrington stated I'll second. Voss asked any discussion? All in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

Reconvene
Open Session

Vierling stated thank you Mr. Mayor. For the benefit of the public and for the record, we note the Council concluded the Closed Session at 8:04 p.m. They have been in Closed Session as authorized under Minnesota Statute 13.D, reviewing three matters.

As to the union matter, the Council received a report from the City Administrator, provided their discussion and input on issues of strategy and process, but no formal motions were taken. On matters with regard to the acquisition of certain real estate interest effecting real property identified previously as Property Identification #29-33-23-34-0001 and #29-33-23-33-0002, Council also received the report from the City Administrator as to process on those negotiations and returned to the City Administrator its input, again as to issues of strategy and negotiation but again no formal motions were taken. With that being said, that concludes the report from the Closed Session.

10.0
Adjourn

Mundle stated I'll make a motion to adjourn. Harrington stated second. Voss asked any discussion? All in favor? **All in favor.** Voss asked any opposed? None. **Motion passes unanimously.**

Meeting adjourned at 8:06 p.m.

Submitted by:
Carla Wirth
TimeSaver Off Site Secretarial, Inc.