

EAST BETHEL CITY COUNCIL MEETING

January 18, 2012

The East Bethel City Council met on January 18, 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
 Nicholas Vivian, Acting City Attorney
 Craig Jochum, City Engineer

Call to Order **The January 18, 2012 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the January 18, 2012 City Council agenda. Moegerle seconded; all in favor, motion carries.**

Public Hearing Davis explained that staff is recommending that Council conduct a public hearing to take
– Off Sale comments from the public regarding an Off Sale Liquor License for Minnesota Corp Inc., as
Liquor License required by East Bethel City Code, Article III, Intoxicating Liquors, Section 6-55. This was
– Minnesota also published in the Anoka County Union.
Corp, Inc.,

d/b/a Go For It The process should be that the Mayor opens the Public Hearing and invites members of the
 audience to step forward and provide comments.

Approve Off When there are no additional comments, a motion to close the hearing should be offered
Sale Liquor followed by a second and a vote on the motion.
License for

Minnesota Once the hearing is closed staff is recommending Council consider approval of an Off Sale
Corp, Inc., Liquor License for Minnesota Corp Inc d/b/a Go For It, located at 3255 Viking Blvd. NE
d/b/a Go For It provided no reasons for denial come forth at the public hearing. All application materials
 and fees have been submitted for the Off Sale Liquor License. Anoka County Sheriff's
 Office (ACSO) has completed the background check and no issues were found.

The license needs to be contingent on the following:

1. The owner shall submit an application for a certificate of occupancy with the building official and schedule a final inspection one week prior to opening to the public.
2. The approval of State Commissioner of Public Safety

Staff recommends conducting the public hearing to receive comments on the Off Sale Liquor License for Minnesota Corp Inc d/b/a Go For It. Once the public hearing is closed and there are no reasons to deny the license, staff recommends Council consider approval of an Off Sale Liquor license for Minnesota with conditions as stated.

DeRoche made motion to close the public hearing. Moegerle seconded; all in favor,

motion carries.

Voss asked will the off-sale business occupy the entire building? Davis said it will be as the prior business was, half and half. Voss said the license application states it is for the entire building. Davis said they have to have physical separation, which is the reason for this. The intent of the owner is to open as a convenience store/liquor store. Moegerle asked when do they want to be open? Davis said by the end of the month.

Voss made a motion to approve the Off-Sale Liquor License for Minnesota Corp Inc d/b/a Go For It at 3255 Viking Blvd. NE, East Bethel, MN 55092 with the following conditions: 1) The owner shall submit application for a certificate of occupancy with the building official and schedule a final inspection one week prior to opening to the public; 2) The approval of State Commissioner of Public Safety. Moegerle seconded. DeRoche said he is okay with this, he just would like to meet them, and he would like to know who they are. Lawrence said he would like to suggest they card everyone. **All in favor, motion carries.** Davis said he will contact them and suggest they come to the next council meeting to introduce themselves.

Res. 2012-10
Blue Ribbon
Pines –
Alcohol Sales
Violation -
Licensee

Davis explained that on August 31, 2011, the Anoka County Sheriff's Office conducted a compliance inspection pursuant to City Code, Section 6-94. It is alleged that Mr. Richard Jordan sold alcoholic beverages to an individual under the age of 21 in violation of City Code, Section 6-91, (1).

Under City Code, Section 6-93, the City is permitted to impose certain sanctions.

(1) A first violation will result in a \$500.00 administrative penalty to the licensee and a \$250.00 administrative penalty to the individual clerk, bartender, or employee involved in the violation. The penalty assessed to the licensee will be waived if the licensee was not the individual clerk, bartender, or employee involved directly in the violation and if the licensee can provide proof within 14 days of the date of the violation that the clerk, bartender or employee involved had attended RBS (Responsible Beverage Service) staff training approved by the city prior to the alleged offense.

This is the first violation for this licensed establishment.

Staff recommends Council conduct the hearing as requested and then consider Resolution 2012-10 imposing sanctions against the licensee.

Investigator Mike Wahl explained he has been before you before. We have had this conversation. He said he sees that this as up to your discretion. Wahl said at this violation the underage buyer was 17. At the time the clerk that sold to the buyer was assisting the business and does not normally operate this type of business. He said the clerk was very forthcoming about what happened. Wahl said he was very apologetic. He said he also leaves it up to your discretion with the licensee. Moegerle asked Vivian do we have discretion? Vivian said yes, you do. He said what Vierling explained to him that he discussed with staff is simply that the employee received the criminal citation. The employee has been processed through the court system and paid a criminal fine and community service has been performed. The licensee is in a better position to be imposed a civil penalty. Moegerle said but the code reads that the first violation will result in a \$500 administrative penalty. She asked "Since it says "will" do we have discretion?" Vivian said all he is going off is what Vierling has discussed with staff. Moegerle said the way it is in our write up, it doesn't look

like we have discretion at all in our code.

Lawrence asked in the past what have we done with this. Voss said he doesn't think we have reduced these. He thinks we might have stayed one on a clerk until the criminal proceedings were finished.

Ray Jordan of Blue Ribbon Pines Disc Golf at 1901 Klondike Drive NE said he wants to let you know what happened and what has transpired since. He said we have a landscape business that has been operating for many years. Then we built a disc golf business. Part of that included the liquor license. Jordan said we have a gal that comes in and runs this for us. He said she comes in late on Tuesdays and Thursdays. Jordan said his Dad takes care of the duties for us until she comes in, but we didn't talk to him about serving beverages.

Jordan said since then we have gone to court. He said his dad was fined and did community service; 8 hours. Jordan said we have been considering putting a full scale kitchen and bar in our facility, but we are having a hard time with the financing. He said in the back of his mind he has been thinking about hiring more employees and going through the full scale training.

Moegerle asked have you done the RBS training, is that on your horizon and do you know what that costs? Jordan said he is willing to do that but he doesn't know what it costs. Moegerle said she is inclined to say since the community service has already been done, if they get the RBS done, to stay the fine. Lawrence said he would recommend that you card everyone. Jordan said we are looking at it as a positive (learning experience) and then a negative in our family. He said it is one of those things where we weren't quite set up the right way. Jordan said it gave us a very heightened awareness. Voss asked don't we normally have both the license and the clerk for the hearing. Davis said that is correct, this is just the licensee. Jordan asked did you get the information from the attorney that we went through the court system? Richard Jordan said he went to court and he paid a fine of \$500. He said he also was given 8 hours of community service and he has taken care of that.

Moegerle made a motion to adopt Res. 2012-10 Determining Findings of Fact, Conclusions of Law, and Administrative Penalties, Pursuant to City Code Article IV, Sections 6-93, Relative to Blue Ribbon Pines, Inc d/b/a Blue Ribbons Pines Disc Golf, 1901 Klondike Drive NE, East Bethel, Minnesota 55092, waiving the administrative fine provided they provide RBS training to all staff serving alcohol, and eight (8) hours of community service which has already been completed. Vivian stated that under your city code, d) A community service penalty imposed upon a licensee that is not a natural person must be performed by an employee of the licensee before the next renewal date. He said so it has to be imposed on an individual anyways. Voss asked but can we designate it or does the business need to designate it? DeRoche said we should designate it. Moegerle said the question is the financial penalty, should we waive it or cut it in half if the business does the RBS. She said we could give them three months to complete this otherwise they pay the \$500 administrative fine. Moegerle said we charge Richard Jordan with the community service which he has already completed and cut the \$250 fine in half, with regard to the clerk fine. Voss said that is where he is not following you; he doesn't see the \$250 in the resolution. Moegerle said she is reading it from the ordinance and it is right in the ordinance. DeRoche said it is in the ordinance, just not in what is in front of us. Voss said he understands that, but no one was notified of that, we are not having a public hearing on that.

Davis asked Vivian to correct him if he is wrong, but he thinks the resolution was written in light of the fact that the clerk was already prosecuted in the court system. He said and this resolution is now just for the licensee. Vivian said he thinks that is likely, given the notes he has from Vierling and he indicates that ultimately for the licensee to get \$500 and for the clerk to receive a penalty of the \$500 through the court process and another \$250 wouldn't necessarily appear to be equitable. So he thinks this is provided against the licensee only to address that the licensee be assessed the penalty and that the clerk be assessed through the criminal process, which was the \$500 fine. He said now what he would also say; looking at your ordinance is he is not sure he would go so far as to say, "If they send their employees to the RBS training that the fee is going to be waived." Vivian said your ordinance specifically says that the fee is waived if they can provide proof that the employees have attended RBS training within 14 days of the violation. Moegerle asked can't we waive or stay the penalty at this level? Vivian said it is within the Council's discretion. He said you would want to be consistent with this going forward if that is the way you are going to apply it. Moegerle said or amend the ordinance to allow those types of alternatives. Vivian said that is correct. DeRoche said he thinks part of the problem is the time involved in this. He said this happened in August and you went to court when? Richard Jordan said November 10th.

DeRoche said part of this is the notice process and the time it takes. Moegerle asked do we have to exhaust our criminal remedies first or can we do it concurrently? Vivian said typically we would like to see a letter go out from the City Administrator saying we have been notified of a violation under city code 6-93. You are being assessed a penalty and you are to pay it by such date or the City Council will consider a penalty at its next meeting. He said there is some time lapse here and he does think it would be prudent for the Council (due to the fact that the clerk has paid the fine, has done the community service and now you are presented with a resolution that does address the licensee). Vivian said he thinks the notice is an important factor here. If there were a notice and resolution that went out to the clerk that said he would be assessed another \$250, then that would be proper before this Council. But because there is not a separate notice, not a separate resolution and not a piece in that resolution that notifies the clerk that there is going to be a \$250 fee, he thinks the Council should simply deal with the resolution as drafted; the fee to be imposed on the licensee for the violation.

DeRoche asked for clarification of the motion.

Moegerle said her motion was to adopt the resolution as written except to waive the \$500 administrative fee if the licensee provide proof that all staff that serves alcohol go through the RBS training within 90 days and impose the eight (8) hours of community service which has already been completed and the administrative fee against Richard Jordan be waived. **DeRoche seconded.** Voss said he appreciates that Mr. "Richard" Jordan went through the process with county, reason why we set these ordinances up the way it is with the liquor licensees. He said it is because they are the ones that are ultimately responsible for every employee, everyone that works there. Voss said it is their responsibility to make sure they have the training. In terms of sales and laws. He said and really, at least in past councils, the emphasis has been of not selling liquor to kids. Voss said it is not like the law changed recently, not like the emphasis hasn't been there for quite a long time. He said it is the owners that are responsible for it, it is their license, and they signed on their applications that they are going to follow these rules. Voss said people make mistakes, he knows that, but there are also ramifications for making mistakes. He said the point he has made in the past is the county does these compliance checks on a very small percentage of these establishments. Voss said the question he always asks is if they caught one, how many

others happened that just didn't happen to get caught. He said it is safe to say this is likely not the first time it happened. Moegerle said really? She doesn't understand how you can come to that conclusion that this gentleman has done that. She said she just doesn't understand that. Voss said he didn't say that. He said the business.

DeRoche said he doesn't believe it is Council's intent to allow people to either sell cigarettes to minors or sell alcohol to minors because it just doesn't matter. He said he thinks everybody makes a mistake once. He said he doesn't think this gentleman has done it before and he has reason to believe that Ray Jordan is going to be diligent that it isn't going to happen again. And if it happens again he will be the first one to bring down the hammer. DeRoche said but he thinks every case is different and he just doesn't see where this was done with malicious intent. He thinks a mistake was made and he thinks the last time we had someone up here it was pretty much the same rationale. DeRoche said he doesn't necessarily think slapping someone with a \$500 fine takes care of the problem. He said the people that do the compliance checks; it is great that they do. DeRoche said and he would hope that they don't think that we are looking at it that they do this work and now we are just going to let these people go. He said because anyone that knows him, especially if he knows it has gone on more than once, it is just not going to happen.

Voss said he appreciates that, in the eight years he has been up here he doesn't know how many of the liquor violations we have had, at least a half dozen, maybe ten. He said and pretty much in every case it has been the first time. Voss said and pretty much in every case we have had that discussion that everybody makes mistakes. He said if Council's intent on the first mistake is not to fine anyone on the first case, then change the ordinance. There is a reason why it says will, there is a reason why it says shall. Voss said this was a violation of our laws. Moegerle said she appreciates that. She said and the "will" and the "shall" do present an issue, but it doesn't say that it can't be waived. It doesn't say zero tolerance. And, quite frankly, the investigating officer said they immediately took responsibility. Moegerle said if these were some people who didn't take responsibility, tried to cover up, make excuses, (it would have been different) but that wasn't the case. These people took responsibility for the error, have paid criminal fines; have gone through that process. They are acting in a responsible way, they have seen what the issue is. She said if you are always shooting people down, first mistakes... Have you ever made a mistake and were you thrown the hammer down real hard? Or did someone give you a break. Moegerle said in her view it is a learning experience. She hopes it doesn't happen again. She hopes you are going to take greater care. That is the point why we have this. DeRoche said he would rather see this go towards training.

Voss asked along those lines, would you have the same thought process, if a minor bought alcohol and went out got a DWI and got in an accident. He said first time, that person made a first mistake. Voss asked would you make that same argument to the family that the kid just killed. Moegerle said these people have to take that responsibility when they have that business. She said they have got insurance and they have to take that responsibility. Moegerle said she thinks this sent cold chills down their spine because they envisioned exactly what you said and they are probably so grateful to this gentleman for pointing out the error in their procedure.

Lawrence asked to amend the motion to change the administrative fine to \$250 if the licensee completes the RBS training within 90 days. He explained that way there is some penalty for the action caused and we still have them doing the training. **Moegerle accepted the amendment.** Lawrence said he thinks we have to have some type of financial impact

with this because it is a violation. **DeRoche seconded the amendment.** He said he doesn't understand the rationale, but he is okay with it. **All in favor, motion carries.**

Moegerle asked if the ordinance can be on a City Council agenda for review. She said she would like to address the issues that came up tonight and would like to have some alternatives to the sentencing. Davis said we will get that on an agenda. Vivian said he thinks that makes sense, especially since you have criminal citations that you have to deal with the clerk or with the responsible party. They have community service and a fine they have to pay. If the Council is looking for discretion, it makes sense to look at this. Lawrence said card everybody, please. No matter how old they look.

Res. 2012-11
Coon Lake
Market –
Tobacco Sales
Violation -
Licensee

Davis said on August 26, 2011, the Anoka County Sheriff's Office conducted a compliance inspection pursuant to City Code, Section 18-178. It is alleged that Ms. Julie Ann Schumacher sold tobacco products to an individual under the age of 18 in violation of City Code, Section 18-176.

Under City Code, Section 18-181, the City is permitted to impose certain sanctions.

- 1) City Ordinance Section 18-181 provides for an administrative civil penalty for licensees whose employees sell tobacco products to persons under the age of 18 years, with a first violation being a civil fine in the amount of \$150 with the city also having the ability to suspend the license for up to 20 days. The City may also agree with the licensee to waive up to 10 days of the suspension at a rate of 2 days for every 8 hours of community work service performed by the licensee's employee.

This is the first violation for this licensee.

Staff recommends Council conduct the hearing as requested and then consider Resolution 2012-11 imposing sanctions against the licensee.

Deputy Chris Fahey said on the date in question, the 16 year old did go in the store and the clerk did sell him a pack of cigarettes. He said he the clerk did card him, he thinks she just did the math wrong. Fahey said she looked at the date and did the math the wrong way. He said she came out to the car afterwards because he left his ID in the store. Fahey said she was very cooperative, very remorseful. Lawrence asked isn't the license colored different for a provisional? Fahey said there is a band on the top of it and it is colored different and it says provisional and under 21. Voss said he thought it was for under 18? Fahey said provisional license shows the date they turn 18. Voss said on the license that was used it says 18. Fahey said it shows the date they turn 18. DeRoche said if he is not mistaken Julie Schumacher has been to court and has been assessed \$150 in court fees. Vivian said that is correct. Voss said that is the clerk. DeRoche said yes. Voss said this is the licensee.

DeRoche made a motion to adopt Resolution 2012-11 Determining Findings of Findings of Facts, Conclusions of Law, and Administrative Penalties, Pursuant to City Code Article 4, Sections 18-181, Relative to Mary Ann Schumacher d/b/a Coon Lake Market, 515 Lincoln Drive NE, East Bethel, MN 55092 with an administrative fee of \$150 and no suspension and payable within one week and no community service. Moegerle seconded. Voss said he doesn't understand why we wouldn't have community service in there. DeRoche said it is the first time it has happened. Voss said he is more interested in them doing community service than paying a fine. Lawrence said part of the problem with the program is it costs more to run the community service program. DeRoche asked about community service. Don't we have to have someone from the city with the person making

sure they are doing it? Davis said it depends on what is involved in it, sometimes there is excessive supervision required, sometimes very little, and it varies case-by-case. Moegerle asked can they do something like Habitat for Humanity, would that qualify for their community service or does it have to be with the city? Davis said it has to be with the city.

Vivian said but let him just add, as he reads your ordinance it doesn't impose community service, nor does it say that you should or that you have the authority to impose community service. He said it reads: The City may agree with the licensee to waive up to 10 days of the suspension at rate of 2 days for every 8 hours of community work service performed by the licensee's employee. Vivian said so the way your ordinance is written it doesn't give you the authority to impose community service on top of the fine, it only allows you to accept community service in lieu of waiving suspension of license. He said so really the appropriate penalty is the fine. And if you are not going to suspend the license; there would be no community service required because there is no community service to exchange for a reduction in suspension. Voss said not to say this is going to happen here again, but we have had a few establishments over the years that have had multiple violations. He asked did we look to see how we handled the first violation on those? Davis said not in this instance. Moegerle said but you weren't asked to do that after the packet was sent out. Davis said no, the only thing we checked was to see if this was a first violation. Voss said he didn't suggest that Davis should have checked this. DeRoche asked the Schumachers how long they have been in business. Mary Ann Schumacher said two years. Moegerle said but how long have you been there? Schumacher said since 1982. Lawrence asked so there have been no violations since 1982? Davis said there have been no violations in their name in the past two years. Voss said there have been violations there in the past. **All in favor, motion carries.**

Park
Commission
Interview

Davis explained that terms for two of Park Commission members expired on January 1, 2012, Commissioner Dan Butler and Dan Kretchmar.

In response to these vacancies, city staff advertised at the Town Hall Meeting, on the City's website, on our community bulletin board and on Channel 10 for these positions. The City received a letter of interest from Stacy Voelker in response to our ads.

We have included a copy of her letter of interest with this write-up

If Ms. Voelker is appointed to the Parks Commission there would still be one more vacancy to fill on the Commission.

Staff is recommending Council interview Stacy Voelker for the opening on the Park Commission.

DeRoche made a motion to appoint Stacy Voelker to the Park Commission for the term beginning January 19, 2012 until January 31, 2015.

Moegerle asked Ms. Voelker to introduce herself and tell us a little about her background. Voelker said she has lived in the city for about six years. She said she has two young boys, 6 and 8 years old. Voelker said since we have lived in the city, she and her husband have been highly involved in Cub Scouts, both leaders. She said we are active in outdoor activities. We love camping, fishing, anything that brings us outside. Voelker said she works for the City of St. Louis Park in the Parks and Recreation Department and has worked there for 17 years. She said she is one of the staff liaisons and the recording secretary for the Parks Advisory Commission in St. Louis Park. Voelker said recently she got her Bachelor of

Applied Science so she wants to take the time she has now has, versus going to school, into applying it to her community. **Voss seconded; all in favor, motion carries.**

EDA
Interviews

Davis said that the term for one EDA Commission members expires on January 31, 2012, Commission Member Tom Larson. Larson was an ad-hoc member and was appointed to fill a position that was formerly held by the school superintendent. He said Larson is planning on retiring from his position at the school in June, so he has indicated he will serve at the city's pleasure. Davis said but he probably won't be available as he has been in the past.

So, in response to this vacancy, we advertised on the City's website, on our community bulletin board and on Channel 10. The City received applications from Dan Butler and Greg Hunter in response to our ads. We have included copies of the applications as part of your agenda materials.

Staff has received notification from both candidates that they will be unable to attend tonight's meeting. Both candidates have previously interviewed before this Council with Mr. Butler's interview being for a prior EDA position and Mr. Hunter being interviewed for a Planning Commission position.

Staff is recommending Council either appoint one of the two candidates for the EDA vacancy based on prior interviews or table the appointment until February 1, 2011.

Moegerle said she thinks we should go ahead and proceed, we are all familiar with the candidates. Voss said except we may all know them, but we haven't talked to them in the sense of this position. He asked when is the next EDA meeting? Moegerle said Saturday, February 11th. Voss said so February 1st is the next Council meeting. Do we know if they can be at that meeting? Davis said they did not indicate if they would be there or not. Voss said he would like to see if they can be at our next meeting. Lawrence asked Davis to check with them and then we can table this to our next meeting. Voss said he is fine with tabling it to February 1st and if they can be there, fine, if not we will make a decision either way.

DeRoche asked is it his understanding that Mr. Larson has no interest or can we also bring him in and interview him at the same time? Moegerle said that is not quite how it was. She said historically, St. Francis School District has had an ad-hoc representative member of the EDA. Moegerle said since we reformatted the EDA he has been an ad-hoc member. She said when we changed the by-laws everybody is a real member, not ad-hoc members. Moegerle said Tom didn't know his term expired, so he didn't know to apply or to have someone from St. Francis apply to fill this position. She said he is willing to continue, but again, he is ending his position with St. Francis School system in June. Moegerle said what needs to be addressed is do we want to have someone from the St. Francis school system in the EDA as a regular member or ad-hoc. Voss asked we don't have a slot on EDA like this anymore, correct? Moegerle said not anymore and the question is do we want to have one. And do we want to have one for Forest Lake as well although there is a lessor proportion of our students that go to Forest Lake? Voss said when this was started we wanted an ad-hoc from the businesses and from the school district. He said we talked about the Forest Lake School District and it is actually a higher percentage of students than you think, but in terms of economic development impact on the schools, it was going to far greater impact the St. Francis School District than the Forest Lake. Voss said just because of the way development plans were drawn up, that is why St. Francis was included. He said and Superintendent Saxton was the first representative, but then Tom came in because it made more sense from their end. Moegerle said the question becomes one of philosophy, whether we want to

reserve a regular position for the schools or as an ad-hoc member. She said Larson himself has provided many valuable comments and contributions to the EDA over the past year. But it is the position, more than the person we have to weigh. Voss asked is Larson interested in applying for a position again? Moegerle said yes. Voss said if he didn't know about it, he would say again, we wait until February 1st. Moegerle said okay, but if we are going to allow him to throw his hat in, do we allow anyone to throw their hats in? Voss said yes. Moegerle said we re-advertise this. Voss said we can accept anyone that applies. DeRoche said he thinks it would be a good idea to have someone from the schools. Voss said but we don't have this in the by-laws, so we can't just select somebody because of this. Davis said we can appoint someone as an ad-hoc member. DeRoche said he doesn't know that they necessarily need to be a voting member, unless that is really big to them. But we could surely use the input. Voss said he would suggest we see what Larson would like to do. He said to him it is important that the school district is represented. Moegerle agreed. She said so we will let the two candidates know it has been continued and we have reopened this for applications. Lawrence said but even if Larson retired, he may still want to stay on. He said he would still be in touch with the school.

Lawrence made a motion to table the EDA interviews until the next City Council meeting on February 1st. DeRoche seconded; all in favor, motion carries.

Sheriff's Report

Lieutenant Orlando gave the December 2011 report as follows:

DWI Arrests: There were six DWI arrests in the month of December. Five arrests occurred as the result of driving violations. The highest blood alcohol level was a .19, which is over twice the legal limit.

Burglaries: There were three burglaries reported. One involved a theft from a motorhome that was in storage. One involved a bicycle taken from a garage. One involved a theft from a shed.

Property Damage: There were six reports of damage to property. Two reports involved mailboxes being damaged. One report involved a business which had a perimeter fence cut and a power meter removed. One house was egged. Two houses had been damaged as a result of doors attempted to be forcibly entered. No entry appeared to have been made.

Thefts: There were twelve theft reports. There was a wallet taken from a vehicle, where the victim was unaware until fraudulent charges appeared on a credit card. A purse was taken from a vehicle in a smash and grab incident. There were two thefts of money; one where a suspect was identified (who was an acquaintance). A portable ice-fishing house along with fishing related equipment was taken from a trailer. One report involved a juvenile male and a paintball gun that had been acquired under false pretenses. The paintball gun was sent back to the rightful owner.

There was a terroristic threats/ 2nd degree assault arrest that occurred at a business. One male was arrested in the incident, which involved a male being cut by a knife.

Follow up – Last week Lowell Friday was charged by formal complaint with 35 counts of animal neglect and cruelty by the East Bethel City Attorney.

Scams – The grandparent scam is still going on and we are seeing victims on a regular basis. This scam involves receiving a phone call from a grandchild, advising they are in need of

money for bail, or due to a car accident, etc. Another person will get on the line and advise they are with a law enforcement agency and tell them where to wire sums of money to. These destinations are generally out of the United States. Unfortunately, more often than not, the victim does not realize it is not their relative and will send money. These cases do not have a good ending for the victim.

Another scam that is on-going is the Craigslist scam. This is where you have something for sale and receive an offer to buy your item, but the check will be substantially more than what the sale price is. Your instructions are to return part of the overpayment to another party, usually in another country. What ends up happening is the checks are fraudulent and you are out the entire sum of money that the check was for. Again, there is not a lot that local law enforcement can do in these types of cases.

Lawrence said he got one of those checks. He said he looked at the check and wondered why did they send me so much money. Lawrence said the item was for \$750 and they sent \$2,000. He said they told him to just take it to the bank and cash it. Lawrence said it was drawn on a Wells Fargo Bank and he took it to a Wells Fargo Bank. He told them he was very suspicious of the check and they said it was good check. They told him the funds are in the bank, it is drawn from a legitimate company. He asked them to double check. Lawrence said the manager came over and looked at it. Here it was a stolen check from the company. He said even though the bank had said the check was good, it was for payroll only and he would have been out \$2,000. Lt. Orlando said that is the way this happens, originally the check will clear. They will get the routing numbers and produce checks that that look legitimate and once that check gets to the company they find out it is fraudulent. She said then the person that cashed it is out the money that they cashed it for. Moegerle asked is that mail fraud? Lt. Orlando said yes. DeRoche said he sees the domestic arrests are up a little, is that because of the holidays, the stress? Lt. Orlando said it could have been. It wasn't too bad. Lawrence said his recommendation to people selling things on Craigslist is if they write you back about an item, have them call you. If they won't, then they are phony. Lt. Orlando said also beware of the Mystery Shopper Scam. This is where you can work from home being a mystery shopper. That is prevalent now too.

Public Forum Lawrence opened the Public Forum for any comments or concerns that were not listed on the agenda.

Ken Langmade said he would like the Council (all the Council) to use your microphones when you are discussing things. He said he has trouble hearing, he uses hearing aids, but if you don't use your microphones he has a problem picking up what you are saying. Langmade said and when people watch it on cable, they turn the volume way up on their TV and then when someone uses the microphones it blasts them out. He said so we would appreciate if you could use your microphones a little bit more. DeRoche said he thinks our sound system is being improved. Davis said that is correct. It is not necessarily your hearing, it is more the sound system in this room. Voss asked are we getting new microphones? Davis said no. Voss said because as soon as you turn away, the sound goes away. Lawrence said he appreciates your comments.

There were no more comments so the Public Forum was closed.

Consent
Agenda

Voss made a motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, January 4, 2012 Regular Meeting; C) January 4, 2012 Special Meeting; D) Approve Animal Control Contract; E) Water Treatment Plant No. 1

Materials Testing Contract; F) Approve Tobacco Licenses for Minnesota Corp, Inc. d/b/a: Go For It at 3255 Viking Blvd. NE, East Bethel, MN; G) Res. 2012-12 Supporting Funding for Anoka County Meals on Wheels. DeRoche asked to pull Item H) Completion of Probation for Public Works Manager. Moegerle said she was also going to ask to pull this off the consent agenda. **DeRoche seconded; all in favor, motion carries.**

Item H –
Completion of
Probation for
Public Works
Manager

Moegerle said she read about how good Nate Ayshford, our Public Works Manager has been doing, words like “exemplary”, etc. She said he has done a fine job and she thinks we should take the time not just rubber stamp this. Moegerle said that he is off probation, works full-time employee status and it’s a good time to recognize that he has done a fine job and he is a good employee and that we are glad to have him aboard. Davis thanked her for echoing those sentiments and he has done an outstanding job and we are very fortunate to have him on staff.

Moegerle made a motion to approve Item H) Completion of Probation for Public Works Manager. DeRoche seconded; all in favor, motion carries.

EDA By-Law
Amendment

Davis explained that on January 4, 2012 the EDA made a recommendation to staff to amend the EDA by-laws. The notes from the meeting have been attached for your review.

The EDA recommended amending by-laws to include a regularly scheduled monthly meeting on the fourth (4) Wednesday of each month and to address the composition of the EDA. The by-laws have been amended to read as follows:

Section 2.1c Members. The Board shall consist of seven (7) voting members to include two (2) City Council and five (5) members of the business and residential communities.

Section 3.2 Regular Meetings. The Board shall hold regular meetings the fourth Wednesday of each month at 6:30 PM and at such other time as the Board may determine and set.

Staff is also recommending the following amendments to ensure compliance with state statutes:

Section 2.6 Terms. Those commissioners appointed shall be appointed for terms of one, two, three, four, and five years respectively, and two members for six years. Thereafter, all commissioners shall be appointed for six-year terms.

Section 4.12 Compensation. A commissioner, including the president, shall be paid for attending each regular or special meeting of the East Bethel Economic Development Authority in an amount to be determined by City Council.

City Council passed resolution 2011-19 setting the compensation for EDA at \$20 for regular meetings and \$10 for work and special meetings.

Also, Ad-Hoc Members Sherry Allenspach and Mike Conner have not been appointed as full members of the EDA. Staff is recommending that Council consider their appointment to full member status with their positions to run concurrently with their existing Ad-Hoc terms which expire on January 31, 2013.

Staff requests City Council to consider adoption of the proposed amendments to the EDA

By-Laws and to appoint Ad-Hoc Members Sherry Allenspach and Mike Conner as voting commissioners of the EDA with terms expiring January 31, 2013.

Voss motion to approve the by-laws as presented with two changes, page 95, Section 4.12 he would like to add the Ad-Hoc members to be paid in case we add any. Moegerle asked since this is an authority should we be calling them commissioners? Vivian said he just did this for another city he works in and he thinks we titled them commissioners. **Voss said and the other change he would have is in section 3.2 Meeting Time. Take out 6:30 P.M. for the meeting time.** Moegerle said going back to 4.12 should that be "All commissioners including ad-hoc." Voss said that is what he is stating. **Moegerle seconded the changes.** DeRoche said we just had discussion about Tom Larson. So are we going to go with seven members and one ad-hoc member? Voss said that is in this document. He said we already have the ability to add ad-hoc members. Moegerle said the question is are we going to specify that they are going to be from the school system. Lawrence said don't think you want to be this specific. Voss said we had it in here before. He said he would trust the school board will be involved. Moegerle said we should discuss whether they should be ad-hoc or voting members. Voss said when we set it up, the reason we had business and the school as ad-hoc was because of the potential that they weren't residents. Moegerle said but at the time the EDA was all Council too. Voss said but Sherry was on it. Moegerle said and she was ad-hoc. Davis said it would be his personal recommendation that we don't designate people that come from certain backgrounds, that we keep that open. He said if we want to appoint someone from the schools, then we can consult with the school district and see who they would like to have and appoint on that basis. Voss said he agrees. Moegerle reiterated the changes to Section 4.12 Compensation. All commissioners, including ad hoc commissioners and the president, shall be paid for attending each regular or special meeting of **All in favor, motion carries.** DeRoche asked if at some time will that compensation branch into the HRA? Moegerle asked so the Council would get compensated for serving on the HRA? DeRoche said here the President of the EDA is being compensated. He said he doesn't care himself with the HRA, but somewhere down the road will this need to be addressed. Voss said years ago we talked about commission meetings and whether liaisons should get paid because commissioners do. He said it is extra meetings. Moegerle said we should put this on the agenda for the future.

Voss made a motion to appoint Sherry Allenspach and Mike Connor as full members to the EDA. Moegerle seconded. Voss asked what are their terms? Davis said what we are recommending is they fulfill their current term of January 31, 2013. He said at that point we will begin to stagger their terms. **All in favor, motion carries.**

Res. 2012-13
Setting
Meeting Dates
for the EDA
for 2012

Davis explained that On January 4, 2012 the EDA made a recommendation to amend the by-laws to hold a regular EDA meeting on the fourth (4) Tuesday of each month.

Attached is Resolution 2012-13 setting the EDA meeting dates for 2012.

Staff recommends City Council to adopt Resolution 2012- 13 setting the regular meeting dates for Economic Development Authority as indicated in the EDA By-Law amendment.

Moegerle made a motion to adopt Resolution 2013-13 Setting the Regular Meeting Dates for the Economic Development Authority on the fourth Wednesday of the month, time not designated and other dates as needed. Lawrence seconded. All in favor, motion carries.

Davis explained that City staff has been contacted by residents and organizations looking to volunteer in the community by helping to clean and beautify our local parks. With the establishment of an Adopt-A-Park program, we can formally recognize these individuals and organizations, establish timeframes for suggested activities, and provide partnership opportunities for residents and city government.

Residents would be able to adopt any of our parks on a first come basis and would be required to perform maintenance and beautification activities 2-3 times a season. In recognition, City staff could provide a sign in each park that states who has adopted the park along with recognition in the City Newsletter.

This was discussed at the last Council meeting. There were certain provisions that the Council wanted reviewed by the City attorney. The City attorney has reviewed those provisions and made changes as noted in the write-up. At this time city staff is recommending adoption of the Adopt-A-Park program with the attached agreement as amended by the City attorney.

Moegerle made a motion to create the Adopt-A-Park program as included in the packet, except the terms in paragraph 4, put a *comma* after season and insert *and* after early summer *and* the second in the last summer or fall. Lawrence seconded.

DeRoche said just for a little clarification, we had heard after the last discussion on this that the Boy Scouts that were going to be the adopters. Moegerle said they had expressed an interest in adopting maybe one of the Booster Parks. DeRoche said that was a tidbit of information we didn't have at the time. Moegerle said we had three boys here at that meeting. DeRoche said right, so anyone with the Boy Scouts, we weren't blowing you off. **All in favor, motion carries.**

Street Light
Installation at
Forest Road
and Lincoln
Drive

Davis explained that upon completion of the initial City of East Bethel Street Light Plan in 2010, the City Council and Road Commission determined that future street light installation requests will be reviewed on a case-by-case basis. Previous street lights were typically placed at intersections of major roadways (including county roads, MSA routes and City arterial streets), intersections with poor visibility, intersections with higher speed limits on approaching roads or intersections with high traffic volume.

Staff has received a request for a street light at the corner of Lincoln Drive and Forest Road. At the January 10th Road Commission meeting, commissioners discussed the request and voted to recommend placement of the street light by a vote of 5-1. The cost of the installation would be \$889.00. The annual cost for the operation and maintenance of each street light is approximately \$110.00. Funding for street light installation would come from the Street Maintenance Fund.

Based on traffic counts of 783 cars per day at this four-way intersection, the presence of local businesses, the adjacent fire station, Lincoln Street being a part of a proposed MSA route and the intersection being a major entry point to the Coon Lake Beach neighborhood, staff is recommending the placement of a street light at the intersection of Forest Road and Lincoln Drive.

DeRoche made a motion to approve the placement of a street light at the intersection of Forest Road and Lincoln Drive. Voss seconded. Voss said just an observation really, there are not residences at this corner, it is all businesses. Davis said if you look at the plan, one corner is Purple Reign, one corner is Coon Lake Market, one corner is the parking lot

for Purple Reign and the other corner is extra parking lot/vacant lot. DeRoche said at your request, Davis, he talked to the homeowner that is down the way. He is the only homeowner that is within 500 feet and he didn't have a problem with. DeRoche said he thought it was probably a good idea because it is so dark there at night. Voss asked these are downcast lights right? Davis said yes, they are. Voss asked is this purposed at southwest corner? Davis said yes. Voss asked is there an existing pole there? Davis said yes, there is. Voss said he is thinking about traffic hazards. DeRoche said at one point he thinks there was a traffic light there, and for whatever reason it was taken down. **All in favor, motion carries.**

Landborg
Wetland
Credits

Jochum explained that Mr. Tim Landborg has established 4.8 acres of wetland credits. The wetland was established because of impacts in the NW corner of Viking and TH 65. Landborg currently has a \$4,500 escrow account established at the City. Landborg's current outstanding development review costs are \$2,453. Landborg has requested that the City consider returning the \$4,500 escrow and forgiving the current development review cost in exchange for the excess wetland credits. There currently is an excess of approximately 1.5 acres in wetland credit.

This item was originally discussed at the December 21, 2011 City Council meeting. Since that time, the City Attorney has reviewed the property ownership and staff has had preliminary discussions with the Technical Evaluation Panel (TEP).

The City Attorney has confirmed that the City does have title to the property which is directly east of the city Ice Arena and is shown in the packet as Attachment 1.

Staff has outlined the following three options for Council consideration:

Option 1:

Landborg pays for costs incurred so far by the City, completes the work needed to finalize his wetland obligations on the Viking/TH 65 site, and keeps the right to bank the excess wetland credits. The City would not incur any costs with this option.

Option 2:

The City assists Landborg with the final wetland monitoring and finalizes the certificate of completion in order for him to receive credit for his wetland impacts on the Viking/TH 65 site. The City could then request the Technical Evaluation Panel (TEP) to allow the City to utilize the remaining credits on the City's Water Treatment Plant access road which will require approximately 0.9 acres of wetland replacement. The remaining 0.6 acres of available wetland credits would then expire.

We discussed this option with the TEP. The TEP appeared to support this option.

City-incurred costs would include approximately **\$5,553** as outlined below:

Monitoring Report: \$1,500

Certificate of Compliance: \$100

Additional TEP meetings/correspondence/permits: \$1,500

Current Landborg review costs: \$2,453

Estimated Cost to Purchase Water Treatment Plant Credits	\$49,000
Estimated Cost Option 2	<u>\$5,553</u>

Net Value of Option 2**\$43,447****Option 3:**

The City assists Landborg with the final wetland monitoring and finalizes the certificate of completion in order for him to receive credit for his wetland impacts on the Viking/TH65 site. The City could then request the Technical Evaluation Panel (TEP) to allow the City to bank the remaining 1.5 acres of wetland credits which could in turn be used for the Water Treatment Plant project and future projects. This option would require dedication of a conservation easement over the wetland bank. A sample copy of the easement is included as Attachment 3.

We discussed this option with the TEP. The TEP indicated that the banking application would need to start over. The credits would only be eligible for isolated wetland impacts because of new Army Corps of Engineer requirements. The Corps only recognizes banks that are larger than 5 acres. BWSR has also developed new fees and increased others.

City-incurred costs would include approximately **\$25,853** as outlined below:

Monitoring Report: \$3,500

Certificate of Compliance: \$100

Additional TEP meetings/correspondence/permits: \$3,500

Current Landborg review costs: \$2,453

Additional vegetative management of wetland bank: \$3,000

Conservation easement: \$2,000

Deposit fee: \$1,000

Annual maintenance fee (Assume 10 years): \$5,000

Withdrawal fees (6.5% of value of credits): \$5,300

Estimated Value of the Wetland Bank Credits \$81,675

Estimated Cost Option 3 \$25,853

Net Value of Option 3 **\$55,822**

Given the fact that the application process would need to start over and the wetland bank credits would only be applicable to isolated wetlands, staff recommends that Council consider Option 2 as outlined above.

Voss asked is that largely because of the cost of redoing the application? Jochum said yes. Voss said that is not in your calculation. Jochum said it is our calculation. But it also opens the door to this being a new application and then they could deny it. Jochum said you don't know how they would go with it. The biggest thing is the Corps. They won't go through this whole process for a bank less than five acres. So you would have to go buy credits for this anyway. Jochum said they are pretty liberal with their authority, very few wetlands are isolated. Then you have an annual fee until the bank is gone, \$500 at least (it could go up) and the estimate is at least 10 years. It isn't worth the .68 acres. Voss said you said the TEP appeared to support can you explain that. Jochum said we are ready to replace the credits, the plans are done, the permits are in place. He thinks we can sell it, if that wasn't the case we would of course bring this back to Council.

DeRoche asked we had some questions about the this, Vierling said we do have title, did he give you any notes on this? Vivian said Vierling said he did do an audit of the title with the property involved and the City does have title. He said he didn't identify any other issues.

The easements are in place. Vivian said if the Council were to pursue Option 3, there would be additional paperwork that would need to be done. He said Vierling is comfortable with the Council pursuing Option 3 if they so desire but, he thinks the engineer has raised additional concerns about this option that you need to take into consideration as well. So at this point the question is would Council like to pursue Option 2 or 3, given the costs and benefits as outlined in the staff report and the city engineer. DeRoche asked Jochum you and Vierling have discussed this and your thought is Option 2 is the best. Jochum said correct. Because you would have to start over with the Corps.

Voss made a motion to direct staff to move ahead with the Tim Landborg Wetland Credits Option 2 including as follows: City assists Landborg with the final wetland monitoring and finalizes the certificate of completion in order for him to receive credit for his wetland impacts on the Viking/TH 65 site. The City could then request the Technical Evaluation Panel (TEP) to allow the City to utilize the remaining credits on the City’s Water Treatment Plant access road which will require approximately 0.9 acres of wetland replacement. The remaining 0.6 acres of available wetland credits would then expire. If this option doesn’t work out, staff will bring this back to Council. Lawrence seconded; all in favor, motion carries.

Cooperative Agreement Grants

Jochum explained that as outlined in Resolution 2011-45 the City requested state participation in the upgrading and construction of a frontage road along the west side of Trunk Highway 65 to consolidate access points on TH 65. The request was for the frontage road from 215th Avenue NE to 221st Avenue NE.

A grant application was submitted which included the closure of the median at 219th Avenue NE and closure of the direct access to TH 65 at 219th Avenue NE. The application also included construction of a new service road from 215th Avenue NE to 221st Avenue NE. As outlined in Gregory Kern’s letter dated January 3, 2012, the City’s request for \$702,000 was approved.

MnDOT is requesting written confirmation from the City that the funds approved are accepted and that the City intends to proceed with the project as outlined in the grant application.

The total estimated project cost is \$1,590,968. The City’s estimated share of the cost is therefore \$888,968. Assuming that the City does not have to pay for the right of way the City’s estimated share of the cost would be \$598,059. The project cost is broken down as follows:

Construction	\$1,072,672
Overhead and Contingency	\$ 227,387
Right of Way	<u>\$ 290,909</u>
Total	\$1,590,968

Including this service road project there are a total of four Municipal State Aid (MSA) Street projects that have been identified in the City’s CIP. The other three projects include:

- Sandy Drive – Seal Coat and Crack Seal – 221st Avenue to Gopher Drive
- Jackson Street – Reconstruction – 181st Avenue to Viking Boulevard
- Lincoln/Laurel/Longfellow – Reconstruction – From Hawthorne Road to Lexington Avenue (upon approval of MSA certification)

It is recommended that these projects identified for advanced MSA funding be completed as soon as possible to take advantage of competitive construction pricing and to address identified needs for these major City streets.

In order to complete these projects in 2012 and 2013, the City will need to request advanced funds. Approved advancement requests are good for up to one year. Requests can be made for up to 5 times the City's yearly construction allotment or \$2,730,000. Page 132 of the packet provides a summary of the required funding and advancement needs for 2012 and 2013.

Staff recommends that Council approve Resolution No. 2012-14 as requested by MnDOT for acceptance of the Municipal Agreement Program Funds. Staff also recommends that Council authorize staff to prepare the application to request advancement of funds in 2012.

Voss made a motion to adopt Resolution 2012-14 Municipal Agreement Program Funds for the Upgrading and Construction of a Frontage Road Along TH 65 to Consolidate Access Points onto TH 65 and authorize staff to prepare the application to request advancement of funds in 2012. Lawrence seconded.

Voss said on page 125 of the packet you have a map that shows the layout, you show 219th off of TH 65 being turned into a cul-de-sac, what happens to the rest of 219th. Jochum said Jack, Nate and I looked at this and it will likely be aligned just east of that lot at the end of the cul-de-sac. Davis said it would go between the A and V on Avenue on the map. Jochum said and that road would go away entirely and there would not be any cul-de-sac. Voss said he understands that MnDOT is trying to remove the crossovers and access points. He asked we are obviously keeping an access point by putting a cul-de-sac here, so why wouldn't we keep 219th as a through road? Is that a MnDOT requirement or a choice by us. Jochum said the appeal for MnDOT to give us the maximum grant is to get rid of that access completely. He said we will shift the frontage road east and then the entire road to the east will go away.

DeRoche said just for discussion purposes, we are talking about the frontage road that we were trying to get on the east and now we are trying to get on the west. Davis said correct. DeRoche said that came up at the Road Commission. He said and the consensus then was why are we spending this much money, now that we are getting a signal at 221st and TH 65. DeRoche said at that meeting it was \$750,000 and now we are talking \$1,500,000. He said and if we are going to put that much money into a project, why not put it down in where the sewer project is, to bring better access roads in. Davis said this leverage is our money. He said and this is part of our access of eventually converting TH 65 from an expressway into a freeway. This would also open up some more property.

Davis said there was one project we looked at down there it was connecting 187th Lane back to Jackson Street, but the cost of that would be too high. We would have to eliminate one of these other projects to do that and because we would have to include utilities with it. We also felt the benefit would not be as great as this connection would provide. DeRoche said if he remembers correctly, Jackson Street has been talked about for a long time, being redone. That project has been put off, and put off. And the urgency to get the frontage road was before the signal project ever happened. DeRoche said and now that we are putting the signalization in there, it just doesn't make as much sense to him, to spend that kind of money when we are putting the signal light up on 221st and TH 65 so it gives people a way to get through there. He said the whole thing on the east side was we are trying to get down to

Sims. People don't like this intersection. DeRoche said but now the intersection is being taken care of with the signal. He said and the figures were lower. Davis said this project has always been discussed at \$1,500,000, but was broken down as city share and MnDOT share. Jochum said if they donate the right-of-way, we will need \$598,059. He said the rest is for right-of-way. Davis said also, this application went in before final approval for signalization project. This project was applied for in event that we couldn't do the one on the east side.

Moegerle said you talk about the Lincoln, Laurel, Longfellow reconstruction at Coon Lake Beach from Hawthorne Road to Lexington. On your map you show Hawthorne Road as being a through road. As well as what she presumes is Grove. Neither of those go through to Lincoln Drive. Moegerle asked since those aren't through roads and not highly traveled why not continue to go to the Forest intersection where we have the fire barn, Purple Reign, and Coon Lake Market. Or is that where the MSA road ends? Davis said that is where the MSA project ends and we would propose to finish that with Street Capital funds. This is a resurfacing job. It stops there because the right-of-way narrows significantly and it might be difficult to get that in as an MSA project. But we have ample right-of-way back to Lexington to do it, but from there it goes back to a 40 or 50 foot right-of-way.

Moegerle asked what do you need for an MSA road? For right of way? Jochum said typically on an urban street 50-60 feet. Moegerle asked is this because the houses are closer to the street (at Coon Lake Beach). Jochum said you need certain widths and then clear zones. Davis said and the other reason is the remaining section would have to be designed as an urban section, curb, gutter and storm drainage which would significantly increase the cost of that. Jochum said the map is just showing the right-of-way. Voss asked this is reconstruction, correct. Davis said that is correct. Voss asked on this first corner, can you curve it more? Davis said we would anticipate additional right-of-way on both of those curves so the alignment can be improved. Voss asked would you change how Laurel comes in? Davis said yes, that would be more of a "T" intersection, it is almost a "Y" now.

DeRoche said one more thing on the service road. He asked what is the timeline that was looked at that, because we are going to have this torn up here. Davis said the contract will have to be let by June of 2013. DeRoche asked so they would be going at the same time? Davis said no, it would not be done this year. The signalization project is scheduled to be completed by October/November 2012. Jochum said he was at a meeting with the county and MnDOT yesterday and the MnDOT project is starting in April. This is the white topping and it is supposed to be done in late August, just before the county project begins. The concrete resurfacing project MnDOT is doing on TH 65. He thinks it is 217th through the city to the north. **Lawrence, Moegerle, Voss, aye; DeRoche, nay; motion carries.**

Pay Est. #8,
S.R.
Weidema,
Project 1,
Utilities

Jochum explained that attached is a copy of Pay Estimate #8 to S.R. Weidema for the construction of the Phase 1, Project 1 Utility Improvements. The major pay items for this pay request include sanitary sewer construction along TH 65, site restoration and other miscellaneous items. Two separate payments will be made. One payment will be to S.R. Weidema and the other will be to the escrow account established at TCF Bank. We recommend partial payment of \$655,468.02. A summary of the recommended payment breakdown is as follows:

Contractor Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$3,324,841.78	\$3,008,047.89	\$316,793.88

City	\$2,408,626.26	\$2,102,725.52	\$305,900.74
Total	\$5,733,468.03	\$5,110,773.41	\$622,694.62
Escrow Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$174,991.67	\$158,318.31	\$16,673.36
City	\$126,769.80	\$110,669.76	\$16,100.04
Total	\$301,761.47	\$268,988.07	\$32,773.40

This estimate includes payment of \$622,694.62 to S.R. Weidema and \$32,773.40 to the escrow account for a total of \$655,468.02. Payment for this project will be financed from the bond proceeds. Funds, as noted above, are available and appropriate for this project.

Staff recommends Council consider approval of Pay Estimate #8 in the amount of \$622,694.62 to S.R. Weidema and \$32,773.40 to the TCF Bank escrow account for the Phase 1, Project 1 Utility Improvements.

Voss made a motion to approve Pay Estimate #8 in the amount of \$622,694.62 to S.R. Weidema and \$32,773.40 to the TCF Bank escrow account for the Phase 1, Project 1, Utility Improvements. Lawrence seconded. Moegerle asked is this for work that has been completed and materials installed? Jochum said correct, accepted materials. Voss said it is his understanding that there is a section that is under dispute. Jochum said two sections. Voss asked is that within this pay estimate? Jochum said no. He said one section is slightly out of align, but the pipe has integrity. Jochum said and the other section the pipe does not have integrity. Moegerle asked is it the manhole? Jochum said it is from manhole to manhole to manhole to manhole, about 160 feet. Voss asked but those dispute items aren't included? Jochum said correct, they are not included.

DeRoche asked about change order 1, 2 and 3, he doesn't recall what those were for. He asked is one of those for the fuel that we did way back when? Jochum said correct. That was Change Order 1. 2 was for the concrete curb and 3 was for some deduct that the Met Council rearranged some of their piping or eliminated a manhole. That was a negative \$9,000. DeRoche asked to touch on what Voss said, one is an alignment issue and has an integrity issue, and the other one is an alignment issue but iffy. Jochum said one is an alignment issue, but it is a straight line and has integrity. It's just the manhole is 4 feet from where it should be. The second one is the one that shifted. There are two segments in dispute. Lawrence said and that is not included in this pay estimate. DeRoche said he has a warranty problem in his mind. He said to make sure if it has to be fixed that it is done right. **All in favor, motion carries.**

Town Hall Meeting Dates

Davis explained that over the past several years, City Council has directed that a Town Hall meeting be convened in the spring and fall of the year. These meetings allow for citizens to see and hear about activities in the City as well as provide a forum for questions and answers regarding these activities.

In the past, the spring event has been held in April. Regular Council Meeting dates in April include April 4th and April 18, 2012. April 24th, 25th and 26th, 2012 would be available for the spring event. The 25th, which is a Wednesday, is the date of the regular EDA meeting but this could be changed if a Wednesday is a better day for the Town Hall Meeting.

It had been suggested that a single annual event be considered until such time as there are

more topics and projects to discuss outside those that can be addressed at the Public Forum at City Council. If Council should consider this course, it is suggested that the spring event would be more informative as it would provide an opportunity to provide information regarding the upcoming construction projects that are part of the roads and parks capital improvement programs.

Staff is requesting Council direction on the date for the spring Town Hall meeting and consideration of scheduling this event as an annual meeting until the time is necessary to hold this meeting semi-annually.

Voss said he likes the idea, considering the history of the past few years, of going to one meeting. He said the question he has is if we go to one meeting do we do it in April or do we do it May. DeRoche said if we are considering going down to one meeting, we have to do something with the newsletter to get it out more. Some people don't know what is going on. Moegerle asked what is the difference between the Town Hall Meeting and Open House? Voss said we do both. Moegerle said a Town Hall Meeting is questions in a formal session and an Open House would be back in the senior center like we have done. DeRoche said he has no problem with people asking questions. Moegerle said but here she thinks it stifles conversations. The only thing is it captures everyone's attention at one time. Davis said he thinks the spring one is the most important because people can be informed of upcoming projects. He said if there are other things that come up another one can always be scheduled. Voss said we don't necessarily need to decide at this time, we can wait until after the spring meeting and then decide. Davis said we can bring it up at the Town Hall meeting.

Moegerle made a motion to schedule the Spring Town Hall meeting for Tuesday, April 24th. Voss seconded; all in favor, motion carries.

Cigarette
License Fee
Change

Davis explained that per Council direction, staff has reviewed the City's cigarette license fees for 2012 in relation to those of other Cities of comparable size and in proximity to East Bethel. From our analysis of the 11 Cities that responded to the survey, five have fees of \$100 or less, two have fees of \$125-150 and four have fees that range from \$200-250. The City of East Bethel's current fee is \$300 and is the highest of any of the Cities that were compared.

This fee was increased from \$250 to \$300 in 2008 to cover increased costs of enforcement.

There are currently 10 Tobacco/Cigarette licenses issued in the City. All licensees have paid \$300 for their 2012 license.

Reduction in the Cigarette License Fee to \$100 would result in the City refunding \$2,000 to the 2012 license holders. This would represent a decrease of 0.0004 percent of the 2012 General Fund Revenues.

There were two Tobacco Sales Violations in 2012. The City Attorney has reported that it costs approximately \$165 for a Tobacco Sales Violation to be handled by their office.

Staff is seeking direction from City Council on this matter.

Voss made a motion to revise tobacco license fee to \$175. He said it appears to cover attorney cost for violations. Voss said and it puts us at the low end or at least the middle. Lawrence asked is the \$165 per case? Davis said that is per case in 2012. We have had two

cases in 2012. Voss said at least if we have a case, there is no cost to deal with it. Lawrence said in this case we have a \$165 collection fee. At the current time if we spend \$300 per license, we are a little ahead of game on this one. Moegerle said it takes some city employee time to handle the applications and process and those kind of things. She is more inclined to go the \$200-225 range kind of as a test and see where we go with this. Because she thinks there should some cost to process the paper on this. Voss said he is fine with leaving it the way it is, someone has to be at the end of the spectrum, whether it is us or not. He said there seems to be a movement to reduce it.

Lawrence said it seems real excessive to him, so he put this forward. We have our surrounding cities here, Ham Lake is \$100, Oak Grove is at \$75. He thinks \$100 is more than enough to cover the expenses because per person to process the license. It doesn't cost that much to process the paperwork. That is 10 licenses so \$1,000 and if we have two violations that is \$360. How much ahead do we have to be on everything. Voss asked did we look at how long it takes to process to each license. Davis said at least a couple hours each license. Maybe a little bit more than that, because we have to notify them when their license is expiring. Voss said and some you have to chase to get their paperwork. Davis said yes.

Voss amended his motion to \$200. Lawrence said he is looking here at other cities that are at \$100. Voss said but he has said this a couple times. He said if you want to look at how we are out of whack, look at the liquor license fees, we are at the low end on that. Lawrence said those are pretty comparable to everyone else. Voss said On-Sale Ham Lake is \$4,600, Columbus is \$6,000 so we are on the low end for this. Blaine is \$5,500 and Bethel is even more than us. Davis said just for your information, we have ten licenses. If it takes four hours of staff time, that is approximately 40 hours of staff time, so \$1,000 to \$1,200 plus the cost of two violations so that comes to about \$1,500. He said that comes to \$150 a license which is exactly what the average is on the survey. DeRoche asked it takes four hours to process a license? Davis said by the time you process it and chase them down, a lot of them don't respond. We are trying to be proactive so that their license don't run out. We contact them, send them letters, make calls. That is an estimate, some make take a day. DeRoche said that is why he was hoping these people would show up. He said he would think if you going for a license you would make an effort to do it. Voss said you have to remember it is not a part of their business, it is a service they provide. **Moegerle seconded; all in favor, motion carries.** Moegerle said we will have to revisit this next year. Will this be effective immediately? Vivian said it will not be effective until published; when you publish your next fee schedule with this included. Voss said he is not interested in making it retroactive. Moegerle said we could make it effective for anything new, like the one that we had tonight on Viking. Davis said they have already paid their fees. Vivian said if someone applied tomorrow, it would be under the old fee and will be until this fee is published.

Appoint
Anoka County
– Blaine
Airport
Advisory
Commission
Member

Davis said the City has become a member of the Anoka County-Blaine Airport Advisory Commission. Membership on the Commission enables the City to keep abreast of developments at the airport, as they relate to economic development through access to general aviation facilities, and as part of the overall transportation element. The Commission is advisory only and there are no dues or costs to the City to belong. Current municipal members on the Commission include Circle Pines, Blaine, Mounds View, Lexington, Lino Lakes and Anoka County.

City Council appointed Jack Davis as an alternate member to this commission and it is recommended that Ed Fiore be appointed as the official City member with a term of two

years or as amended by the Commission. Mr. Fiore's resume is attached for your review.

Staff is seeking direction from City Council as to the appointment.

Moegerle made a motion to appoint Ed Fiore to the Anoka County-Blaine Airport Advisory Commission for two years. Voss seconded. DeRoche said he has a pretty impressive resume. Voss said yes, he is glad we asked for it. Moegerle said it was provided to us previously in the weekly update we get from the City Administrator. **All in favor, motion carries.**

2012
Compensation
Plan

The Pay Table for 2012 is included for your review. Based on Council direction, the Pay Table for 2012 will remain the same as the Pay Table for 2011 except for Cafeteria Contributions. The Cafeteria Contributions will increase from \$894.36 to \$950.00 per month which is reflected in the 2012 Budget. The increase in Cafeteria Contributions is based on the Union Labor Agreement which compares increases in premiums and contribution comparisons to similar size cities.

Local Government Pay Equity Act, M.S. 471.991-471.999 and Minnesota Rules, Chapter 3920 requires local jurisdictions to submit a pay equity report to the State of Minnesota every three years. The City of East Bethel was in compliance based on the 2009 report and the next report is due January 31, 2012. The appropriate data on employee pay was entered into the software provided by the State of Minnesota and the resulting reports were generated. Although the City will not be notified until the fall of 2012 whether it is in compliance, the guide to the report indicates the City is in compliance. The second group of reports was generated after changing the Building Official and Building Inspector pay to reflect what was in place prior to the reduction in salaries approved on September 7, 2011.

Staff is recommending approval of the 2012 Pay Plan and of the Pay Equity Report.

DeRoche asked what is the cafeteria fund? Davis said the medical contributions. DeRoche said it always amazing how the state can take different cities who may be in completely different situations and say this is what you have to pay. He said in some ways he could see where it could almost force people to get laid off. Davis said the good news is we are in compliance. The penalty for not being in compliance is you will be given a notice that you have to adjust your pay schedules and meet the pay equity recommendations, or you will lose 5% of your state aid reductions or a fine of \$100 a day, whichever is greater. DeRoche asked are we talking gender? Or are we talking a public works person in Ham Lake, East Bethel, and Oak Grove and the state says well you guys should all be about the same pay. Davis said no, this is gender equity and it just ensures that females are paid comparable value to males for the same/similar job.

Lawrence made a motion to approve the 2012 Pay Plan and Pay Equity Report. Moegerle seconded. Lawrence said this is a report essentially prepared by the state to ensure that the genders are being paid equally for the job they are doing. **All in favor, motion carries.**

Council
Member
Report –
DeRoche

DeRoche said the fire department has special training coming up with Stacy, Linwood and Wyoming. They also have special training for officers in March, called Blue Card Certification. DeRoche said they have a board meeting on Tuesday.

Council
Member
Report -
Moegerle

Moegerle said mainly she has been working with EDA issues. She said we are going to have a retreat on February 11th for three hours to talk about what the EDA is going to be doing, what level of involvement we think the EDA should have. Moegerle said we had three conference calls today about EDA related issues. She said but probably more interesting to the general public is since the sewer is not anticipated to be coming out to Coon Lake Beach, we are looking at how to correct septic issues. Bob and I had a meeting with building inspector Emmanuel Sackey today to discuss how to deal with this and what grant funds are available. It's a big problem to resolve.

Council
Member
Report -
Voss

Voss asked as we had a discussion on licensing issues, are we able under our liquor licenses to make it a requirement of having a license that the establishment go through the Responsible Beverage Training. Vivian said you can place reasonable restrictions upon a license it would be appropriate. Voss said he thinks that is something we should look at doing. He said an along those lines, we did this many years ago when Tom Thumb was still there, he thinks they had three violations, lost their license for a month. Voss said there is some terminology on checking the license. Where they have to run your license through a checker. He doesn't know the cost. Vivian said he thinks you can, but again it is the question of the cost and is it reasonable. Voss said when these come up, over the years there have been a couple that have been problems and those are really frustrating. He said but the ones that come up the first time, if they had these technologies in place. Voss said you can't legislate stupidity, you can't make people think common sense. He said but if they had to pass a license through to make a sale, pretty easy thing to do, just don't know what the cost is. Something to think about. DeRoche asked Lt. Orlando if a lot of businesses have these. Lt. Orlando said not that she knows about. Voss said he thinks that would solve some of these things. He said and could we find out about the clerks and why they weren't before us. Davis said he can find out from Vierling. Voss said he don't know we made direction that way. It is still part of our code.

Council
Member
Report -
Lawrence

Lawrence said he had an interesting morning. He said he went down to the Met Council with Davis and they were doing a transportation presentation. It wasn't only light rail, but also included buses and roads in between. Lawrence said he was talking to some people the other day. He was very interested to find out that some of the people of East Bethel think that we (Heidi, Bob and I) signed off on the water and sewer project. That we were the forces that put it together and that is just not true. He said we did everything we could do to stop this thing from coming in, because, at the time, we felt it was too expensive. He said we are just trying to handle it now the best we can and bring in the businesses to pay for the project facing the city. He said he wants to make sure that everyone knows this is not something we did. It is from the old council and we are doing everything we can to make it as painless as possible and to make sure the residents don't end up paying for it.

Closed
Session-
Project 1,
Utility
Improvements
Contract

Vivian said pursuant to Minnesota Statutes Section 13.D he recommends that the City Council recess to a closed session to discuss the matter of possible litigation being the City of East Bethel on behalf of the Metropolitan Council Environmental Services vs. S.R. Weidema regarding pending contract dispute. Following closed session we will summarize an actions taken.

DeRoche made a motion to adjourn to closed session. Voss seconded; all in favor, motion carries.

Vivian said this will serve as a recap for the benefit of the public. He said the four Council Members were present at the closed session (that were in attendance at the regular meeting)

for the purpose of discussion of possible litigation between the City of East Bethel on behalf of the Metropolitan Council Environmental Services vs. S.R. Weidema regarding a contract dispute. He said Council received advice and information from staff, discussed issues in dispute and reviewed strategy on proceeding and directed staff to move forward with the strict enforcement of the terms of the contract with the collaboration of Metropolitan Council Environmental Services. No formal actions or motions were made or taken in closed session.

Change Town Hall Mtg Date **Voss made a motion to change the Spring Town Hall Meeting date to Thursday, April 26, 2012. Moegerle seconded; all in favor, motion carries.**

Adjourn **DeRoche made a motion to adjourn at 10:40 PM. Moegerle seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk