

# EAST BETHEL CITY COUNCIL MEETING

JUNE 8, 2016

The East Bethel City Council met on June 8, 2016, at 6:30 p.m. for the City Council Work Meeting at City Hall.

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

MEMBER ABSENT: Steve Voss

PLANNING COMMISSIONERS PRESENT:  
Sherry Allenspach Lou Cornicelli Eldon Holmes  
Glenn Terry Randy Plaisance

ALSO PRESENT: Jack Davis, City Administrator  
Colleen Winter, Community Development Director

**1.0 Call to Order** The June 8, 2016, City Council Work Meeting was called to order by Acting Mayor Ronning at 6:30 p.m.

**2.0 Adopt Agenda** **Mundle stated I'll make a motion to adopt tonight's agenda. Harrington stated I'll second.** Ronning asked any discussion? All in favor?" **All in favor.** Ronning stated motion passes. **Motion passes unanimously.**

**3.0 Discussion on Amendments to City Code** Davis presented the staff report, indicating the purpose of tonight's Work Meeting is to discuss potential changes to the Zoning Ordinance, Section 48, Light Industrial, which was adopted in 2007.

**Appendix A Zoning Section 48, Light Ind.** A proposal by CST Companies to locate in the City was the first test of this section of the City Code and, as such, revealed a number of material weaknesses in our Ordinance. Application of this section of the City Code revealed an absence of definitions, deficiencies in content and inconsistencies in performance standards that could be interpreted to permit most any activity listed under permitted, conditional, and interim uses.

The intention to address these issues is to provide protection from uses that may be inconsistent with the Comprehensive Plan and beyond the objective of the intended goal of this portion of the Ordinance. The proposed changes would not alter the Light Industrial zoning designation, but would align the existing Zoning Ordinance with the Comprehensive Plan.

The following items will be discussed at the June 8, 2016 meeting:

1. Recommend a definition of Light Industrial that relates to our vision of this use and the conditions that are applicable to attracting this type of development.
2. Review of permitted uses within this zoning designation.
3. Review of performance standards within this zoning designation.
4. Review of prohibited uses within this designation.
5. Inconsistencies between City Code and the Comprehensive Plan

**3.0** The objective of the meeting is to provide direction to Staff relating to developing recommendations for the drafting of:

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1. A definition of light industrial use;
2. Permitted and prohibited uses; and,
3. Considerations for performance standards for uses within this classification.

Based on the recommendations that originate from this meeting, staff will present a draft report for a potential ordinance change to the Planning Commission at the July 26, 2016, meeting for further review and comment.

Davis asked those present to reference Attachment A, definitions for industrial use and discuss the proper definition of this term. He noted that not allowing outside manufacturing would be consistent with past discussions. Also, to require all storage to be inside and to not create strong odors or vibrations beyond the property line.

Holmes stated under the industrial definition it states... 'where process is not likely to create offensive noise, vibrations, dust, heat, smoke, odor, glare, or other objectionable influences.' He asked how the City will regulate that as one person's noise is another person's not noise and it is the same with odor. Davis stated that is the current issue the City is faced with. He explained there are regulations to model these types of activities; however, they are difficult to enforce. These issues are limited to within the boundaries of the property and if objectionable or discernable from adjacent properties, then it is an issue. Davis stated one of the ordinances has language in how to address the issue but no matter what the City does, there will be questions relating to ability to enforce. Davis indicated that even this general statement will be an improvement over the current language.

Terry suggested extending that sentence to indicate: '...objectionable influences beyond the site.' Davis concurred and referenced the handout with another definition of industrial use that included that language stating: '...objectionable when measured at the property line.'

Holmes asked if a meter would be required to make that measurement. Davis stated 'measured' or 'measurable' may not be the correct words and in this case it would be if detected at the property line. He explained some wordsmithing will be needed and the intent is to get the member's suggestions and guidance on how to improve the existing ordinance.

Ronning stated you have to bear in mind what is reality with noise and sound, noting 80 decibels is a common thing in industry but that would eliminate things like lawnmowers, Harleys, and a baby's cry. He stated another issue is obnoxious noise. Davis stated this would give a better definition and direction to staff to determine what is or is not a permitted use.

Mundle supported including reasonable expectations even though it may not be known tonight how to measure or detect some of these items. He stated that will be learned through research and becoming more familiar and noted that other definitions have almost this exact phrase so there has to be a way to do it. Davis agreed that while a general statement is enough for most cases, it 'sets the table' for some uses that may be contemplating locating in an area and what will be expected of them.

Ronning stated whatever the answers are, it won't be fair to everybody but it is supposed to be what is best for the community. Davis stated the existing Zoning Ordinance is so vague, unclear, and ambiguous, that it permits just about every use. He stated anything to create clarity will give the staff better direction on how to evaluate these issues as they come

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forward in the future.

Holmes asked about the difference between the current code language and proposed language. Davis stated the differences and inconsistencies between the Code and Comp Plan also need to be resolved, noting the Comp Plan contains the language that has been under discussion but that is not stated in the Code. In addition, the Code contains two sections with conflicting language relating to outdoor storage.

Mundle suggested adding language in the Code to indicate which document prevails, the City Code or Comp Plan as there may be other areas that conflict. Davis agreed there are other instances of conflict and inconsistencies. He stated the City Attorney's opinion is that the specific statement trumps the general statement so in this case about the requirement for exterior storage, the specific statement of 50% of the rear yard takes precedence over the general statement of 'no exterior storage.'

Mundle suggested a sentence saying if there are any conflicts between the Comp Plan and City Code, the Comp Plan rules. Then various interpretations are not needed. Cornicelli pointed out that Codes are enforceable but Comp Plans are not enforceable. Ronning stated ordinances and codes are living documents that are changed and amended but the Comp Plan is in place for ten years. Davis stated the City can clear up the inconsistencies between the two so both express the same intent. Mundle stated then just as extra insurance, language can be added saying City Code rules over the Comp Plan.

Davis described several scenarios of exterior storage and recommended reasonable percentage based on the footprint of the building.

*Consensus was reached that industrial uses shall have no outside manufacturing activities.*

Holmes asked whether the City will need to buy meters to measure things like smoke, odor, and vibration. Davis explained that the applicant bears the burden of proof if there's an objectionable issue. Holmes stated it still has to be regulated and that's the problem. In addition, there will be future businesses that aren't even known at this point so the ordinance will have to be changed again to suit that company. For that reason, he felt the language had to be fairly vague yet strong. Davis agreed that being too specific with the language will limit the City so he would suggest a general definition that can be drilled down to include more specifics later. Another option is to have a PUD overlay on industrial districts to provide more flexibility and allow evaluation on a case-by-case basis.

The members reviewed and discussed sample ordinances from neighboring communities. Terry stated he likes the Andover ordinance language that doesn't measure or create a standard because that would be subjective. Yet it lays the burden of proof with the company to demonstrate they will abide by that and also allows the opportunity to object on that basis. Terry stated that type of language gives latitude with each case and also allows consideration of the location (by residential or isolated location).

Ronning stated the City already has all of this and it just has one problem and that's with one definition. He cautioned crying, 'wolf.' Ronning stated support for language indicating: 'The intent of a light industrial zone is to provide for wholesale and warehousing uses and those industrial uses that include fabrications, manufacturing, assembly or processing of materials that are in refined form and that do not in their transformation create smoke, gas, odor, dust, vibration of earth, soot, or lighting to a degree that is offensive when

measured at the property line of subject property.’

Ronning read another definition from a code publishing company’s website definitions.uslegal.com. He stated there is some continuity between Andover’s ordinances and these two sources as well as Cambridge. He stated asked members to give their thoughts to staff so they can put something in writing.

Plaisance stated when talking about light industrial and property to the north, the whole area as a complex, his concern is what kind of businesses would be facing the highways/roads leading into the complex. He stated if the City is looking to entice industry, it will not want a shabby entrance to this location. Plaisance asked if the City should stipulate that the entrance into the complex should have certain requirements (architecture/landscaping) for those properties. The concern is one of first impression.

Plaisance stated his other concern relates to requiring landscaping/pavement for businesses where equipment is moved. He would like the ordinance to require the appropriate landscaping and semi-permeable surface for that type of industry to limit excess dust. Plaisance stated he may be willing to consider a lower requirement for businesses located in the middle of the industrial park but wants to make sure that the perimeter properties create an attractive appearance.

Koller stated with the language listing the issues (dust, noise, vibration, soot, lighting) found to be offensive at the property line, should also include health hazards and regulate use of chemicals. Holmes stated that would be handled by OSHA. Koller stated that OSHA may to a point but their regulations are based in the actual area and he is talking about things that are windblown into other areas including across the street. Holmes asked how far the distance would go to regulate those things. Koller stated it shouldn’t be allowed at any distance. Mundle asked Koller if he preferred language in the Code rather than relying on an outside agency.

Ronning stated all of this exists now with the Minnesota Pollution Control Agency (MPCA) if there are hazardous material anyplace. He restated this is not ‘new ground,’ noting it can also include things like concrete and/or wood dust. Ronning stated he has viewed the materials sheet, they are not poison, and there is no harm even if ingested. He stated professionals (DNR, MPCA) will be making that decision, not the City and they will either accept or deny in writing.

Harrington noted the chemicals mentioned by Ronning do cause respiratory tract irritation and for your skin. Ronning stated people have been using wood chips and making furniture for hundreds and thousands of years and there is some wood you shouldn’t use as well as treated lumber that can be harmful. He noted you also have chemicals in your home, such as bleach, and need to use some common sense.

Allenspach agreed the language should state something about hazardous chemicals. She would also like to see something about the light trucking, size of trucks, so the City does not get massive amounts and constant levels of 18-wheelers coming into the light industrial area. Davis asked the members to address the issue of trucking separately as the City will need to be careful in how that is addressed to assure it is well thought out and does not result in adverse unintended consequences.

Harrington stated he likes the light industrial definition used by Blaine stating, ‘This district

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shall encourage the development of clean and quiet industrial uses requiring large lots accessible to major highways and utilizing city services of sanitary sewer, water, street, and storm drainage.’

Davis stated the one common factor in all of these is going back to the issue of noise, which is also more difficult to monitor but should be included in the definition.

Plaisance stated when looking at the Blaine definition and talking about utilizing City services of sanitary sewer, water, street, and storm drainage, currently that particular site does not have City sewer and water and the price to extend those services is prohibitive at this time. Davis stated in the long run, if property was available for development to the north, it could be a consideration at some point. He noted water service is necessary to develop due to insurance requirements for fire protection. That is the reason Aggressive Hydraulics built in a location with water service. Davis agreed that for one user, it would be cost prohibitive to extend the services.

Mundle asked if language can be added to indicate it wouldn’t necessarily use sanitary sewer, water, etc. but they plan to in the future so when they go to develop their site plan, it can accommodate sewer and water connections. Davis suggested it include public services readily available at the time, including public streets so they are dedicated under the City’s conditions.

Winter provided a recap of the items discussed tonight:

- *Which trumps, the Comp Plan or Zoning Code from a legal standpoint*
- *Andover’s definition of light industrial*
- *Allowing no outside manufacturing*
- *Restricting outside storage to the rear yards based on the footprint of the building*
- *To align the language of the Comp Plan and Zoning Code*
- *Consideration of different rules for businesses in locations along the highway and entrance points versus an interior lot*
- *Need to mitigate parking lot dust through appropriate landscaping*
- *Include health hazards in the light industrial definition*
- *Include use of hazardous chemicals in the light industrial definition*
- *Include regulation of number of trucks*
- *Consider Blaine’s definition of light industrial*
- *Include regulation of noise*
- *Plan for future public infrastructure*

Ronning suggested the language indicate known health hazards so it is not something in the future.

Holmes stated the issues of noise, heat, smoke and glare can all be metered but other items like vibration, dust, odor, and other objectionable influences can’t be metered. He suggested language indicating a metered item can be in a certain area and a non-metered item it can’t be within half a mile of residential or something to that effect. Winter asked Holmes if he is suggesting the non-metered items would be less restrictive. Holmes answered in the affirmative.

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Davis stated the MPCA worksheet measures impacts of items including dust based on things like groundcover, exposed surfaces, and wind speeds. He stated the issue of odor is

difficult to define but the City needs a way to objectively measure them and set a standard.

Cornicelli asked whether the definition changes to manufacturing within a structure, doesn't that attenuate most of the noise concerns. Davis agreed it should take care of most all of these concerns. Cornicelli stated so the issue of metering and not metering, if the definition changes, then it's a moot point largely. Davis stated then the issue would be noises generated by trucking activities, emissions from the building, and things of that nature.

Davis stated staff can use tonight's input to draft a definition for the Planning Commission's consideration. He asked the members to next address prohibited uses. Davis addressed trucking types of businesses, such as UPS, and asked what would be considered permissible within light industrial.

Ronning noted this information will be considered several times so there is time for more comments and thoughts.

A resident asked if the light industrial definition will require all manufacturing to be inside. Ronning stated most of the examples provided suggest that manufacturing takes place on the inside of the building, not the outside. The resident stated his opinion that the business being proposed could not be dropped into the middle of Andover or Blaine or anyplace he knows.

Ronning noted some of the examples do include trucking and warehousing. He stated if that was Wal-Mart going in, you'd have hundreds of trucks 24 hours a day with lights on 24 hours a day and a lot of people.

Plaisance asked how fast staff intends to get something drafted. Davis explained there is no timetable and staff will look at this from several different directions to assure it is as correct as possible this time so it does not have to be done over again. He anticipated it will take two Planning Commission meetings and maybe a couple City Council meetings to come up with something that is acceptable.

Mundle agreed that once a final draft is prepared, at that point, it would be good to open it to the public to get input.

Davis stated with the trucking aspect, it is known that certain businesses have transportation needs. He suggested prohibiting trucking terminals as a use in this area. Davis stated a definition of 'trucking terminal' will be needed and the City will need to consider the impact of prohibiting this use so more discussion is needed. Davis indicated the goal is to be protective without being too restrictive and stated he would like to hear the member's comments.

Ronning stated the City also has to keep in mind what is currently existing so it dovetails together. He stated if the new language is too restrictive, it will cause existing uses to become non-compliant.

In response to Ronning, Davis described the three aquifers in this area. Davis stated the environmental issues will also need to be considered but that is more specific than what is being considered tonight. Davis asked for input on the trucking aspects.

3.0 Mundle stated if we have a truck terminal, it should be a certain distance away from any

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residential and regulated on the size of trucks (semi with tractor-trailer versus large delivery trucks).

Allenspach supported regulating hours of operation. Davis explained that could be part of the performance standards and suggested staff draft examples of definitions relating to the trucking aspects for consideration at the next Planning Commission meeting.

Davis stated earlier it was mentioned to require paving areas, vegetation/landscaping, which are also performance standards. He noted one of the proposals from the company that wishes to locate at the intersection of 237<sup>th</sup> and Highway 65 proposes to have 15 acres of essentially a dirt parking lot for their pallet storage, which could pose problems. Davis stated he is not sure what can be done within the existing ordinance but he would recommend that it be paved or a non-erodible (rain and wind) surface be provided. In addition, a definition of exterior storage is needed including the area allowed, position in relation to the building, and screening requirements. With loading docks, the location on the building needs to be specified along with hours of operation if outside activities are involved.

Harrington asked about a UPS or FedEx operation that uses semi-trucks. Davis stated that will have to be addressed when talking about trucking because if you become too restrictive, you limit certain businesses the City may find desirable.

Holmes stated he does not think the City can legally say, 'no trucking companies.' Davis clarified that the City can do so. Holmes stated if the City did say 'no trucking terminals,' it was legally fought and the City loses, it can still put in a guideline on the location of trucking terminals but there may be no such property in East Bethel. Davis stated the City of Fridley recently prohibited any more automobile repair uses on Highway 65 as it believes there were already too many. Davis reviewed the City's regulation of adult businesses that restricts locations.

Plaisance stated FedEx is a perfect example of what he could consider a trucking terminal since it is a location that is specifically designed for distribution. He noted that if talking about a store that receives goods, it needs a dock but that would not be a trucking terminal as it is a place trucks come in, are stored, and loaded at all hours of the night, and then come back out. Plaisance stated he does not know if the City can define it that closely but to him, he would prefer the City not have trucking terminals.

Davis stated one thing initially brought up is the limited amount of land in East Bethel that can be developed for industrial use so the City would like it maximized in terms of job creation. He noted that distribution facilities generally don't employ a lot of people but do require a lot of property.

Cornicelli asked about the Isanti UPS distribution center. Davis stated that building is very small and most of the time those trucks go out in the morning and don't come back until evening. He noted that other distribution businesses send trucks out in the morning and those trucks may return two or three times during the day to pick up more product for delivery.

Holmes stated he has worked at three large UPS buildings and they do employ a lot of people, but that's actually a distribution center compared to places like Isanti that is not as large. Davis stated he was referring to more of a satellite distribution center, not a regional

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distribution center that is very large and employs more people.

Allenspach noted it's impossible for the language to cover everything but you have to do the best for your particular city. Holmes agreed and restated there are new businesses that will come in and the ordinance will have to be changed again.

Davis stated that it is *generally not considered that light industrial uses utilize outside manufacturing and light industrial uses do not have a ratio of approximately 15 to 1 in terms of exterior storage to building size.*

Terry stated if you narrow it down to public safety issues, it doesn't matter what else comes in because the groundwork is covered to protect transportation and public safety and visual issues.

Davis stated for the most part, the two issues mentioned will take care of a lot of the other issues. Cornicelli stated that is likely why the Blaine ordinance language is fairly concise and brief because those few statements take care of 90% of the issues. Davis concurred and stated if the City can take care of 90% of the issues, it would be fantastic. He asked if there are more comments or direction for staff.

Mundle stated Blaine has a section addressing zero lot lines and suggested that be included. Davis stated that had also been suggested by Mr. Creswell who has been instrumental and done research to give the City ideas on this. Davis stated that at this time this area is not served with public utilities and lot sizes are a minimum of 10 acres.

Winter stated the concern with the zero lot line is whether water is available to those sites. Davis stated one of the issues is that the current Code lists minimum lot sizes, which creates a handicap when designing a compact industrial park. He supported staying with a 10-acre standard since there are not utilities in that area.

Davis stated staff has received enough input to create a rough draft for future consideration.

#### **4.0 Adjourn**

**Mundle stated I'll make a motion to adjourn. Koller stated I'll second that.** Ronning asked all in favor? **All in favor. Motion passes unanimously.**

Meeting adjourned at 7:45 p.m.

Submitted by:

Carla Wirth

*TimeSaver Off Site Secretarial, Inc.*