

EAST BETHEL CITY COUNCIL MEETING

JUNE 15, 2016

The East Bethel City Council met on June 15, 2016, at 7:00 p.m. for the regular City Council meeting at City Hall.

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

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

1.0 The June 15, 2016, City Council meeting was called to order by Mayor Voss at 7:00 p.m.

Call to Order

2.0 The Pledge of Allegiance was recited.

Pledge of Allegiance

3.0 **Harrington stated I'd like to make a motion to adopt tonight's agenda. Under the Consent Agenda, I'd like to add Items P, One-Day Temporary On-Sale Liquor Permit for the Cedar-East Bethel Lions Club for Booster Days, and Q, Supplemental Payment Summary. Mundle stated I'll second. Voss asked any discussion? All in favor? All in favor. Voss asked opposed? That motion passes. Motion passes unanimously.**

4.0 Davis presented the staff report and background of the request by Jeff Brozek for a building permit to construct a 2,400 square foot detached accessory structure on his 3.5-acre lot, zoned Rural Residential, located at 19820 Naples Street NE. It was noted that City Code, Appendix A, Zoning, Section 14, allows these type of structures up 2,400 square feet on this size parcel. Davis explained why the requested building permit had been denied and process available to Mr. Brozek to appeal staff's decision.

Presentation

4.0A

Admin.

Hearing

Jeff Brozek

It was noted the Council received Mr. Brozek's presentation regarding his claim of no basis for the denial of the permit after which the Council remanded the issue back to the Building Department for clarification regarding the computation of square footage, defining the procedure for measurement of the 14-foot exterior sidewall height, intent of the Ordinance as it relates to this matter, and other commentary that may relate to issues brought forth in the Hearing. Staff contacted the Minnesota Department of Labor and Industry (DLI) and requested definitions for Floor Area and Exterior Walls. The definitions and interpretation from the DLI are provided in Attachment 7. These definitions support staff's understanding of sidewall/wall heights but still leave the matter of floor area open to interpretation.

Davis stated Mr. Brozek met with City Staff to discuss a possible resolution to the difference of interpretation in this matter on Monday, June 6, 2016. At the conclusion of the meeting, the only outstanding disagreement concerned the determination of the sidewall height of the proposed building. Though Mr. Brozek was willing to consider a lower ceiling height for the second floor, his preference remains approval of the plans as presented for the original request for a permit.

4.0A Davis reviewed the options available to Council as detailed in the staff report, noting an

historical summary of how the 14-foot sidewall height wall was arrived at was also included. He stated staff recommends that the City Council conclude the Administrative Hearing for Ryan Brozek, 19820 Naples Street NE, and upon conclusion of the Hearing provide direction to staff relative to the administrative decision of the denial of the building permit.

Mundle stated the only issue before the Council now is the sidewall height. Davis indicated that is correct, noting the letter from the DLI indicates the second floor appears to be an uninhabitable structure for storage space so that square footage is not computed in the total square footage of the building. He stated with the sidewall height, the only thing in Code that regulates it for these types of buildings is in the detached accessory structures. Davis acknowledged when the sidewall height regulation was under discussion by the Planning Commission and City Council, it related to pole buildings to enable 14-foot sidewall heights so a 12-foot garage door could be installed. That discussion never related to detached garages or stick built structures.

Mundle asked what was the code for accessory structures before that discussion took place. Davis stated the sidewalls were of lesser heights but he is unsure how they were arrived at or the intent. Mundle asked about the original intent of a detached accessory structure, no matter whether stick built or pole barn. Davis stated before it was changed, there are many examples of detached stick built garages that did not fall under this requirement or it was waived for some reason. Davis stated he did a tour about a week ago and observed at least a dozen that all had exterior wall heights exceeding 14 feet, mostly built between 2004 and 2007. At some point, there was either no regulation or a waiver of requirements of stick built buildings for wall height. Davis stated all the structures he observed were well done, blended with their neighborhoods, and were compatible with the principle structure.

Voss stated there are quite a few in East Bethel and perhaps they were considered as a frame structure where the Code is 30-foot maximum. Davis agreed with that interpretation as probably the differentiation is between pole/post frame buildings and traditional-type frame buildings. It was noted that with the latest ordinance amendment, the discussion centered exclusively on pole buildings.

Ronning stated one consideration in this case is the ornamental soffit on the side of the wall, which is not structural and the wall extends to that point. Davis stated that measurement is 22 feet 4-9/16 inches.

Davis stated when first looked at, his opinion was it didn't meet the sidewall heights but after his research, he thinks the intent and purpose was to regulate pole buildings and stick/traditional built fame buildings have fallen under the same codes under which the principal or residential structures were built.

Voss stated in years past, the City encouraged frame built over pole buildings and more focus was brought to make them look like the principle structure.

Davis stated if there is intent to regulate these, then the ordinance needs to be specific in how these structures are defined.

Mundle stated no matter the outcome of this case, he believes this subject should be addressed by Planning & Zoning to determine if there should be two codes (stick built and pole buildings), how each is distinguished, and conditions that fall under each. Davis stated

he would not object to classifying these as meeting the codes of the principle structure as all structures he viewed were well done.

Voss asked if there have been any recent proposals for a second floor that have been denied. Davis answered not to his knowledge.

Ronning stated one consideration that remains is the use of the second story, noting he had asked several times at the last meeting but did not receive an answer. Voss stated but if you use the premise of looking at the structure the same as the principal structure, then that discussion becomes moot because all the two-story buildings he knows of have some kind of living space up there or storage or workshop.

Mundle stated as long as it's not a habitable use. Voss stated it does not have sanitary service and no one is living there or sleeping there. Mundle asked if the City has control over what use happens on the second story. Vierling advised potentially yes if it's a use that would be otherwise prohibited or not permitted under the Zoning Code for that zone. Then there would be restraints and it would not be allowed. It would be the same as the principle structure in terms of use except you can't live in it.

Koller stated I'll make a motion to reverse the staff decision to deny the building permit based on the intent of the ordinance and allow the structure to be built as presented. Harrington stated I'll second. Voss asked any discussion?

Voss stated he agrees with Mundle and staff that the ordinance needs to be tweaked by Planning. Ronning asked that Planning also define what is meant by habitable. Mundle stated inhabitable means you can't live there and asked Ronning if he was asking Planning to draft conditions so you cannot live there. Ronning stated no, what it amounts to is you can't live there so it's not supposed to be able to be lived in. Mundle concurred.

Voss asked any other discussion? All in favor? **Harrington, Koller, Mundle, and Voss-Aye.** Voss asked any opposed? **Ronning-Nay. Motion passes 4-1.** Davis stated staff will issue the building permit and asked Mr. Brozek to stop by City Hall.

4.0B
SWPPP
Public
Hearing

Davis presented the staff report and described the purpose of the City's Storm Water Pollution Prevention Program as required by the National Pollutant Discharge Elimination Program, which authorizes City's to discharge storm water to the public water system. He reviewed the program's strategies and explained that based on the public oral and written input, the City can modify the Program as the City determines to be appropriate. As required, the meeting notice was advertised in the *Anoka Union* and copies of the City's SWPPP are available for public review at City Hall and on the City website. Staff recommends that the City Council conducts the annual meeting to consider public input on the City's Storm Water Pollution Prevention Program to receive public comment.

Voss opened the public hearing at 7:19 p.m. No one from the public or Council offered comment. **Voss closed the public hearing at 7:20 p.m.**

4.0C.1
Sheriff's
Department
Report
4.0C.1

Commander Orlando presented the May 2016, Sheriff's Report, reporting on 1 DWI, 1 Possession of Marijuana, 2 Curfew Violations, 6 Trespassing Curfew Violations, 1 Disorderly Conduct, and 1 5th Degree Possession of Controlled Substance arrests.

Mundle asked what time is curfew. Orlando explained it depends on age and night of the

week and the specifics are posted on line.

Orlando announced she will not be in attendance for the next three months as she is attending the FBI National Academy for leadership training. She stated she will provide contact information and monthly reports will be made. Davis and the Council congratulated Commander Orlando on her upcoming training opportunity.

Orlando answered a question of an audience member relating to the location of the trespassing arrest.

U-Turns on
221st Avenue
at Hwy. 65

Harrington asked about traffic eastbound on 221st Avenue at Highway 65, and whether U-Turn are restricted at that location. Orlando asked if it is marked as such. Harrington stated he thinks it is marked in the center but often witnesses vehicles making U-Turns in that location. Harrington asked if complaints had been received about that activity. Orlando stated she will alert Deputies.

4.0C.2
Fire
Department
Report

Fire Chief DuCharme stated the May 2016 report had been provided to the Council, noting they responded to 32 calls of which 3 were for illegal burning. He reminded the public they cannot burn garbage in a recreational fire and recommended residents talk to their neighbors before lighting a recreational fire in case smoke is bothersome to them. Chief DuCharme stated they assisted in a mutual aid fire in Oak Grove. He stated they responded to 23 medical calls but transported only 14 of those. In addition, they continue with business inspections and fire safety plan reviews.

New State
Fire
Code

Chief DuCharme announced that early May, the State adopted a new Fire Code, which will be brought before the Council for adoption in the next few months. He stated there are not many changes but may be issues with driveways not being considered fire roads in the new Fire Code.

Booster Day
Firemen's
Dance

Chief DuCharme stated tickets are available for the Booster Days Firemen's Dance on July 16th, which will cap off those festivities. He described where those tickets can be purchased.

5.0 Public Forum

No one signed to speak at the Public Forum.

6.0 Consent Agenda

- Item A Approve Bills
- Item B June 1, 2016 City Council Meeting Minutes
- Item C Union Contract
- Item D Approve Liquor License Renewals for 2016-2017
- Item E Resolution 2016-26 Accepting Donation from Eckberg Lammers
- Item F John Anderson Park Siding Contract for Park Building
- Item G Sub Surface Treatment Systems (SSTS) Grant
- Item H Set Date for Fall Recycle Day
- Item I Resolution 2016-27 Declaring Playground Equipment at Rod and Norma Smith Park Surplus
- Item J Purchase of Playground Equipment for Rod and Norma Smith Park
- Item K Set Date for July HRA Meeting

6.0

- Item L Resolution 2016-28 Declaring 1986 Ford L-8000 Fire Tanker Truck and

Consent
Agenda

- Item M 1983 Chevrolet Kodiak Fire Truck as Surplus
- Item N Approval of Election Judge Roster for 2016
- Item O Resolution 2016-29 Identifying the Need and Authorizing an Application for Planning Assistance Grant Funds
- Item P Pay Estimate #5 for the 185th Avenue, Laurel Road and Lincoln Drive Street Reconstruction Project
- Item Q One-Day Temporary On-Sale Liquor Permit for the Cedar-East Bethel Lions Club for Booster Days
- Item R Supplemental Payment Summary

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

7.0 Commission, Association and Task Force Reports
New Business

7.0A None.
Planning
Commission

7.0B None.
Economic
Development
Authority

7.0C None.
Park
Commission

7.0D None.
Road
Commission

8.0 Davis presented the staff report, noting Randolph Anderson, 24315 University Avenue NE, received an Interim Use Permit (IUP) for the keeping of farm animals in August 2013 and it will expire in August 2016. The IUP stipulated conditions that Mr. Anderson continues to maintain. Davis presented the application of Mr. Anderson an IUP renewal to keep of up to four horses and three bovines on his 17 acres of property, noting this request meets all the requirements of City Code, Chapter 10, Article V. Staff recommends the approval of an IUP to Mr. Randolph Anderson for the Keeping of Farm Animals at 24315 University Avenue NE subject to the conditions as outlined in the IUP Renewal Agreement.

Department Reports
8.0A
Community
Development
8.0A.1
Randolph
Anderson
IUP
Renewal

Ronning stated I'll move to approve an IUP to Randolph Anderson for the keeping of farm animals at 24315 University Avenue NE subject to the conditions as outlined in the IUP Renewal Agreement. Harrington stated I'll second. Voss asked any discussion?

Mundle asked if there had been any violations. Voss asked if there had been any complaints. Davis answered no to both inquiries. Mundle asked if staff has inspected the site. Davis stated the Community Development Director and Building Official both inspected the property. Voss asked any other discussion? Hearing none, to the motion, all in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

8.0A.2 Admin. Subd. Rimma Medelberg 20381 E. Bethel Blvd. Davis presented the staff report and request of Rimma Medelberg, who owns a 29.04-acre lot at 20381 East Bethel Boulevard that is zoned Rural Residential. Ms. Medelberg's residence is located on this tract and it is her plan to sell the house and divide the property into two lots, one of which will retain the home and contain 2.5 acres (including right-of-way) and the other lot will be 26.54 acres. Per revisions that were approved at the City Council meeting on June 1, 2016, Ms. Medelberg's property qualifies for a simple lot split under the amended Administrative Subdivision Ordinance. Ms. Medelberg meets the requirements for a simple lot division and the requirements of the underlying Rural Residential (RR) zoning district. Staff recommends the approval of the Administrative Subdivision request for Ms. Medelberg, 20381 East Bethel Blvd, East Bethel, MN 55011, PIN# 22-33-23-11-0006.

Ronning stated move to approve the Administrative Subdivision request for Rimma Medelberg, 20381 East Bethel Blvd, East Bethel, MN 55011, PIN# 22-33-23-11-0006. Koller stated I'll second. Voss asked any discussion? Hearing none, to the motion, all in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

8.0B Engineer 8.0B.1 Project Reports Jochum provided an update on the Castle Towers Wastewater Treatment Plant Decommission Project and report. He referenced the cost summary sheet to date for this project, noting the top 15 items have been completed, some by a hired contractor. Jochum referenced the left hand column, the original bid, and the actual costs of \$80,400.

Castle Towers WWTP Voss asked if the estimated number is no longer correct. Jochum stated that is an estimate on the dumpster disposals. He has not yet received the final invoices but thinks it will be about \$8,400.

Jochum reported everything is out of the ground at this point and the site is nicely graded. The remaining five tasks are listed with the major items being removal of the buildings. The bid for that work is \$62,720 and he thinks the 4-acre turf establishment can be accomplished for much less than the bid amount of \$30,000. Jochum stated the plan is to obtain quotes for the remaining work for presentation to the Council in several weeks to determine whether to proceed.

Voss asked if there is a practical need for anything remaining on the site. Jochum and Davis both indicated there is not and agreed it is an attractive nuisance.

Harrington stated he thought when the pond was drained and the building was removed, the site would remain to be developer driven and the City would not establish turf. Jochum explained the NPDES construction permit requires turf establishment so it needs to be seeded with a cover crop and grass seeded to control erosion but top soil will not be placed.

Phase I Service Road Jochum stated staff has completed draft plans for the Phase I Service Road to establish the vertical and horizontal control but nothing more will be done until all easement deeds are signed. Once that is completed, they will add details to the plan, present them to the Council for approval, then submit to State Aid for review. He estimated a late-fall bid with winter muck and utility work but the bulk of the road being constructed in the spring of 2017.

185th Avenue Project Update Jochum stated 185th Avenue, Lincoln, and Laurel is mostly done so punch list items will be inspected.

Jochum reviewed the Council's past action to approve the plans and specifications and authorized solicitation of bids for the 2016 Street Surface Improvement Project at its May 18, 2016, meeting. This project includes overlaying approximately 12,000 lineal feet of City Street and reclaiming and overlaying 6,700 lineal feet of City Street. There were also two alternate bids received. Bids were opened on June 10, 2016 and the Alternate Bids were as follows:

Alternate Bid No. 1: Overlay the City Hall parking lot.

Alternate Bid No. 2: Reconstruct the Public Works Building parking lot.

Jochum reviewed the bid summary as contained in the draft resolution, noting Rum River Contracting was the lowest bidder for the Base Bid and Knife River was the lowest bid for the Base Bid and any combination of the Alternate Bids. Staff recommends that the Base Bid and both alternate bids be accepted from Knife River in the amount of \$686,387.58. The estimated cost of this project was \$794,400. The Streets Capital Improvement Plan has set a budget of \$871,000 to be spent on overlays in 2016. Funds are available and appropriate for this project. Staff is recommending approval of Resolution 2016-30 Accepting Bids for the 2016 Street Surface Improvement Project.

Harrington stated I'll make a motion to approve Resolution 2016-30 Accepting Bids for the 2016 Street Surface Improvement Project. Mundle stated I'll second. Voss asked any discussion? Voss stated the recommendation is to do both alternatives. Davis answered in the affirmative. Voss asked any other discussion? Hearing no further discussion, to the motion, all in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

8.0C
City Attorney

None.

8.0D
Finance

None.

8.0E
Public Works

None.

8.0F
Fire
Department

None.

8.0G
City
Administrator

Davis presented the staff report relating to the Upper Rum River Water Management Organization's (URRWMO) mission and activities. He stated the URRWMO is in the process of updating its Plan and advised of opportunities to provide comment at an open house at the Oak Grove City Hall on June 29, 2016, at 7:00 p.m. He encouraged anyone who can to attend this open house to make comment on the URRWMO action plan.

8.0G.1
URRWMO
10-Year
Plan

Mundle referenced the Plan and explained items depicted in red were proposed by other governmental agencies and will be considered by the URRWMO whether to include. He stated the Plan requires public input and encouraged all to attend this open house.

Informational; no action required at this time.

Davis presented the staff report, indicating staff has concluded real estate negotiations with affected property owners for the right-of-way/easements required for the Phase I Service Road Project. Staff has keep the Council informed as the negotiations were in process. There are two permanent/temporary easements and one parcel purchase proposed for acquisition. PIN #'s for the properties are as follows:

- 29-33-23-34-0001, 0.39-acres permanent and 1.51-acres temporary easement - \$15,000
- 29-33-23-33-0002, 10-acre tract with dwelling - \$349,000
- 29-33-23-32-0004, 1.6-acres permanent and 1.5-acres temporary easement - \$12,000

Total acreage of the acquisition consists of one 10-acre tract with dwelling, 1.99 acres of permanent easement and 3.01 acres of temporary easement and the cost of this right-of-way/easement is \$376,000. The City will use funds from their Municipal State Aid Account (MSA) for the acquisitions. The MSA account is funded by an annual appropriation from Mn/DOT and no City General Funds will be required for these purchases. Staff recommends the approval of the real property acquisition of lands as identified and detailed in the staff report with total payments of \$367,000 to be disbursed at closings.

Mundle stated I'll make a motion to approve approval of the real property acquisition of lands identified as PIN #'s 29-33-23-34-0001; 29-33-23-33-0002; and, 29-33-23-32-0004, with total payments of \$376,000 distributed at closings. Harrington stated I'll second. Voss asked any discussion? To the motion, all in favor say aye? All in favor. Voss asked opposed? That motion passes. Motion passes unanimously.

9.0 Other
9.0A
Staff Reports
Booster Day
Elec. Judges

Davis announced the June 16, 2016, Booster Day meeting at 6:30 p.m. at City Hall and invited anyone interested in volunteering to participate.

Davis reported the City still needs two assistant head election judges for Precincts 1 and 3. He encouraged anyone interested to contact City Hall.

9.0B
Council
Report –
Member
Ronning
Shaw Prop.
Council
Member
Harrington

Ronning stated there has been a lot of activity at the Shaw property at County Road 22 and Jackson Street with hauling in fill and black dirt and final grading. Davis explained staff had granted permission for this activity about two months ago and to fill in the pond. Staff will meet with Mr. Shaw tomorrow morning and will provide an update at the next Council meeting. Ronning stated it is nice to see this activity.

None.

Council
Member
Koller

Koller stated yesterday the Roads Commission toured overlay locations in East Bethel and found some were in rough shape so the project is well needed. He noted the drainage also needs to be addressed.

Council
Member
Mundle
Reserve
Open House
Movie Night

Mundle reported on his attendance at the Upper Rum River WMO meeting to discuss the Plan update. He announced the public is invited to the Cedar Creek Ecosystem Science Reserve's 2016 Summer Open House on June 18, 8:30 a.m. to 1:30 p.m. Mundle encouraged residents to attend and invite their friends to Movie Night at the Park before Booster Day where the new Star Wars movie will be shown. He asked Davis to relay to the Booster Day Committee that if they need any help, they can contact the Council.

Mundle asked for an update on the Chamber's audiovisual upgrade. Davis stated the audio visual equipment upgrade was just completed in the Chambers adding two larger and brighter screens, flat panel 70-inch monitor to view presentations, upgraded sound system, and upgraded broadcast capabilities. In addition, the control room equipment has been replaced. Davis stated this is a tremendous improvement and the PEG fees received from Mid-Continent will be dedicated to cover the cost. There will be no involvement of General Funds over the life expectancy of this equipment. Mundle asked if the meeting is being recorded and presented on the website in Hi-Def. Davis stated that is correct.

Mayor Voss
Hwy. 65
Study
CST Update

Voss asked for an update on Mn/DOT's Highway 65 study. Davis stated Mn/DOT hopes to have some information by August including several alternatives and a better simulation model for the Reduced Conflict Intersection at Highway 65 and County Road 22.

Voss asked for an update on the CST application. Davis stated staff has heard nothing from CST since May 4, 2016. Staff initiated one telephone call but received no information. Davis stated he has had no contact with CST for six weeks and awaiting word from CST.

9.0C
Other

None.

9.0D
Closed
Session
Perf.
Evaluation

Vierling stated thank you Mr. Mayor. For the benefit of the public and for the record, we'd note that at the present time the Council's about to go into Closed Session as authorized under Minnesota Statute 13D. The purpose of tonight's Closed Session is a performance evaluation for the City Administrator. This is a regularly scheduled performance evaluation under the Administrator's contractor. The Council will go into Closed Session for the purposes of the evaluation and the performance review and will then return into Open Session after having completed it. The Closed Session will be digitally recorded as required by Statute with that tape being maintained for a period of two years. With that being said, I'd recommend a motion to go into Closed Session for the purposes I've indicated.

Move to
Closed
Session

Mundle stated make a motion to go into Closed Session at 8:00 p.m. for the purposes that City Attorney has indicated. Harrington stated I'll second. Voss asked any discussion? Hearing none, all in favor say aye? **All in favor.** Voss asked any opposed? That motion passes. **Motion passes unanimously.**

Reconvene
Open Session

Vierling stated thank you Mr. Mayor. We'd note for the record and the benefit of the public that the Council's back into Open Session after having concluded the Closed Session, which was a personal review periodically conducted under the Contract with the City Administrator. All members of the Council were in attendance as was Mr. Jack Davis and myself as the City Attorney. It was tape recorded as required by law. No motions were made during any period of time at the Closed Session. The evaluation, however, was conducted and although that is confidential, I think it is fair to say the content of the evaluation was positive in all respects. With that being said, Mr. Mayor, that concludes the summary report of the Closed Session.

10.0
Adjourn

Mundle stated I'll make a motion to adjourn. Harrington stated I'll second. Voss asked any discussion? All in favor? **All in favor.** Voss asked any opposed? Meeting adjourned. **Motion passes unanimously.**

Meeting adjourned at 8:22 p.m.