

EAST BETHEL CITY COUNCIL MEETING

December 21, 2011

The East Bethel City Council met on November 16, 2011 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Bob DeRoche Richard Lawrence
Heidi Moegerle Steve Voss

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

Call to Order **The December 21, 2011 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Boyer made a motion to adopt the December 21, 2011 City Council agenda. Voss seconded; all in favor, motion carries.**

Sheriff's Report Lieutenant Orlando gave the November 2011 report as follows:

DWI Arrests: There were five DWI arrests. Two stops took place as a result of traffic violations. Two arrests occurred after calls came in on driving conduct. One arrest occurred after the vehicle had been involved in a property damage hit and run accident.

Burglaries: There were nine burglaries reported. One was a vacant building where copper pipe was taken. Two were of homes. Three involved attached and detached garages where items were taken. One involved the attempted break in of a residence, where no entry was made.

Property Damage: There were three reports of damage to property. One involved an unknown vehicle driving through several yards in a neighborhood. One involved a DWI suspect that was arrested. The last involved a business sign.

Thefts: There were seventeen theft reports taken. One involved a suspicious vehicle found at a closed business, where a suspect was arrested possessing property stolen from the business. A juvenile theft suspect was charged after taking a bicycle from a residence and hiding it behind his home. There were two thefts reported that involved a "friend or acquaintance" taking property of the victim's. There was a theft of equipment from a trailer where a piece of equipment was located at a pawn shop. The investigation is still active. There were two thefts from vehicles reported – one where a purse was taken.

DeRoche asked it looks like DWI's are up little from last month? Lt. Orlando said they are up a little, but not concerning. Moegerle said the misdemeanor arrests; thirteen this month compared to seven last month. Is there anything notable about those arrests? Lt. Orlando said there was nothing notable about the arrests.

Public Hearing – Vacation of Sylvan Street Davis explained that City Council has reviewed proposals to vacate Sylvan Street. As part of the process no vacation shall be made unless it appears in the interest of the public to do so after a hearing preceded by two weeks published and posted notice. The council shall cause written notice of the hearing to be mailed to each property owner affected by the proposed

vacation at least ten days before the hearing. In addition, if the street, alley, public grounds, public way, or any part thereof terminates at, abuts upon, or is adjacent to any public water, written notice of the petition or proposed resolution must be served by certified mail upon the Commissioner of Natural Resources at least 60 days before the hearing on the matter. The notice to the Commissioner of Natural Resources does not create a right of intervention by the commissioner. At least 15 days prior to convening the hearing required under this section, the council or its designee must consult with the commissioner of natural resources to review the proposed vacation.

The Commissioner must advise the city council or its designee accordingly upon the evaluation.

The petitioners for this street vacation have been advised that the City can not sell this property but they can be charged the City's cost for expenses for this vacation.

All the provisions for satisfying the requirements of Statue 412.851 have been fulfilled and the public hearing for this street vacation can proceed.

The Public Hearing was opened.

Andy Nelson said he is one of the property owners adjacent to Sylvan Street. He said he is here on behalf of Dick Roback; he may want to say a few words. Nelson said and also Doug and Linda Foster (live next to us) who were given notice last summer that their septic was not compliant that they would have to adjust that. They contacted Ryan Lashinski a local septic provider. Lashinski said that Nelson's property which is next to Sylvan Street would have to be included in a new system, both well and septic. Nelson said he could not do that unless he could utilize enough space in Sylvan Street to do that. He said we visited with him three times looking at other options and closely looking at how it could be done within the boundaries and did not find a solution other than using Sylvan Street.

Nelson said talking to Dick Robeck and himself about making a formal request to the city to vacate that land in the public's interest, we have had council with the neighbor's and also with you to see if there is any public use of that land. He said it has no use for public access, no use for drainage, nor has it any use for fire from what he understands. Nelsons said so we would like you to entertain our request to vacate that land in order to adjust our space and get compliant with our septic system. He said he has any diagrams you want and Ryan is willing to come and talk to you about the options we looked at. Nelson said All three of us families have been residents of this property in excess of 60 years. His grandfather was a large farmer in East Bethel in the 30's so he knows this neighborhood very well.

Voss said this is somewhat confusing. He asked so you are at 4640? Nelson said yes. Voss asked and the Fosters are at 4644 which is further east? Nelson said that is correct. Voss said but yet the easement is on the west side. He said the easement doesn't affect the Foster's property. So can you explain more about why the easement is needed? Nelson said yes. He said in order for them to place a septic drainage field and well, that affects the current well and septic he has. Nelson said it has to be moved for them to adjust it. He said it creates a Dominic effect. Nelson said so we have had the same contractor come out and to figure out a plan that would work.

Voss asked did we not address this with the license? Nelson said if he puts this on the city street right-of-way with the license, at any time the city can repossess it or tell me to get off

of it. He said there are no provisions where he could have a permanent situation. Voss said that is true. Nelson said so he asked his attorney what could be done to adjust that license and the language and he said, "The way it is written there is no security there." He said so he could put \$20,000 into it and it could be taken away in a month, a year or five years. Boyer asked is there a reason we can't lease the land? Vierling said conveyance of real estate; you don't have the power to do that. He said this is a dedicated right of way; the city doesn't even have the power to sell it. Vierling said you can either vacate it or retain it.

Voss said there is a bit of caution we need to take as we proceed, as a city in giving up land. He said just as Nelson said, there is no perceived use of this land. Voss said but it seems your fear of putting investments in this land is the city may have use in the future. He said to him it is recognizing the fact that there could be use in the future. Voss said there are a number of these that nothing has been done to them for 60-70 years. He said but that is not to say how long have we had cell phones, various things can come up. Voss said there might be some public use for that at some point. He said again, you are stating and we are agreeing that there is no perceived use for that land right now. Voss said but you are cautious to proceed on the license (which is the first time we have done this) because the city might have use for it in the future. Moegerle said she is aware that the city did a license for a term of years in 1985. She said this is something she would envision that would give Nelson some security, but would not relinquish the cities interest. Moegerle said the term would have to make sense for a septic system; it is a major investment. She said one concern she has, is she has become aware that there are "state of the art" systems that are quite small. Moegerle said don't hold her to this, but she thinks they can even be under driveways they are so small. She asked have you looked at this, or is it cost prohibitive? Moegerle said she would like to see that addressed, because what we haven't been given is any measurements, etc. Nelson said if you would like he has some of those diagrams. Moegerle asked the question most important to her is how miniaturized have you looked at for septic systems?

Nelson said we trusted Ryan with any option he could figure out. He said he hasn't gotten into the boutiques possibilities, or the chemical toilets. Moegerle said no, she wasn't suggesting that. She said she does understand though, that there are smaller septic. Nelson said if there was a possibility for license that would provide a lengthy term, he would look at that. He said but our preference would be for you to vacate it; easier and a lot more buildable situation. Boyer said he can appreciate that, but it is difficult to justify giving up 57 feet of lakeshore. He said that is a valuable piece of property and to give that up for nothing doesn't seem to be serving the greater residents of East Bethel well. Boyer said that is why he is quite willing to pursue the licensing idea. Nelson said that would be fine; if you want to keep the lakeshore and just vacate the part that is necessary. Voss asked is this just the well and tank? Nelson said yes. Voss asked this is just a portion of it right; not going across the whole easement? Nelson said yes. Voss said he would think if we needed to put another utility in there the future, there would be enough width even with the licensing we would be able to work around that. He said just because we have to put a utility in there, doesn't mean your structures you put in there have to be tore out.

Boyer said he would assume staff would need time to pursue this licensing. Vierling said we already have a draft; we would just need direction from council on how long a term and certainly then we would constrain the actual license to the area of the improvements. Moegerle said but we will do that during the special order of business, not the public hearing. Lawrence said he looked at property and it is pretty much uphill and then it goes downhill and he doesn't know what we would use it for. He asked are all those trees pretty much on their property? Nelson said the Roback's and us have kept it up, a communal

contribution. Moegerle said she understands the septic has failed. She asked is there a certain time-frame that you have to bring that into compliance by? Foster said by this spring.

Doug Tierney of 4610 Viking Blvd. NE said Davis came down there when we were doing the water on the north end of East Front. He said he told him, "Let's hop in the truck and go down and look at these streets." Tierney said we went down to First Street. He said it has been ripped out twice and they ripped out the "No Parking" sign. Tierney said the city got them to move the boat lift. Everyone used to use that to go down there. He said Davis and I walked down there. They had dumped lake weeds, there was a layer of green vegetation and if you backed in there you get stuck. Tierney said when they say there is no use for these blackety-blackety streets, the use is for people to come off the lake and not go through Doug Tierney's yard. He said he has been going through this for 42 years and it isn't funny.

Tierney said last year when the snow got out on the ice, four of the them got on Coon Lake Beach and straight shot they were trying to get to 22, would be up Sylvan, and they came all the way down, and when they got to the end, they cut my fence. He said they drove by Sylvan Street, Center Street, Lake Street, they drove by them. First Street has been blocked, when he first moved in, he had put railroad ties and big blocks in.

Tierney said after we looked and seen how this one was sabotaged we went to Lake Street. He said Davis said to him, "They had a big dock out there, and they moved it." Tierney said he got out and hobbled down there and they had a boat house and they had moved the dock to the shore and they had picnic tables, chairs, they had blocked it off. He said when you people say there is no use; these were put in for people to use. The city attorney started out like I had said all along, given to the public for public use forever. Tierney said and the last thing the city attorney said was people don't want them developed.

Tierney said the next one down is 19303 and it has always been a jungle. The one after that, one guy had one little thing in there that wasn't hurting anything and people go in and out of there. He said but when you see people blocking them and then you are going to give them away. Tierney said and the DNR recommends against it, don't they. He said they say, once you give it away, it is gone forever. Tierney said he has to put up the fence every fall. He said and he has a big flashlight and when he hears the snowmobiles coming they will be out there cutting the fence. Tierney said and if you are giving away the access for getting on and off the lake, then you are all guilty. He said it is not right at all. Tierney said those were put there for public use, and they should remain for public use.

Lawrence said he went down and looked at all the streets that are marked off here. He said and when he looked at the streets, First, Lake and Unnamed were all being used quite frequently by people in the area and he thinks it is important that they can continue to use these. Tierney said First Street couldn't be used because they had it blocked off. He said he was part of the lake survey team for CLIA. Tierney said and he has never seen so many canoes and kayaks. He said he heard people say the DNR don't want them. Tierney said the DNR has said at meetings that if you take the GPS at these and send to them, they will gladly mark them, they know that people use them. He said to say they are not being used, and only use for fire trucks whatever, there are other uses for them. Lawrence sad he could see tire tracks.

DeRoche asked if this goes through, the proposed licensing or whatever, (there are four other places), are we setting a precedent if someone else on those other places if someone's else's sewer goes bad, do we have to open them up also? Vierling said we would have to look at

them on a case-by-case basis. He said council would look at each one as it comes in. Boyer said it is certainly not his intention to close the access merely to allow the encroachment of the right-of-way for the placement of the septic. Moegerle said she foresees a policy that would be limited to public health issues such as septic systems. It wouldn't expand for personal recreation or as a land grab.

Leon Mager of 19511 East Tri Oak Circle NE said this city council and companion communities and the Sunrise Watershed have designated \$58,000 to be spent on storm water controls on Coon Lake. He said we won't know which properties are affected by this until the end of next year or first part of the spring, but he suspects some of these properties will be candidates for storm water controls. Mager said the storm water controls can go in on private property; they don't always necessarily have to be on city property. He said in fact, we were very successful over on Martin Lake in getting four private properties for storm water controls and we have them done now. Mager said this is not a show stopper for us, as long as they agree to do a little maintenance for us, and he doesn't know if that applies to this property or not. He said this is something additional you should be aware of, because some of these will be falling into these cart ways or whatever you call them. Mager said this is just informational, something you should be aware of.

Moegerle made a motion to close the public hearing for vacation of Sylvan Street. Boyer seconded; all in favor, motion carries.

Special Order
of Business –
Vacation of
Sylvan Street

Davis explained that the City of East Bethel has five platted but undeveloped City streets that connect East Front Boulevard to Coon Lake.

Sylvan Street is the street that is being petitioned for vacation. The two residents that adjoin Sylvan Street, Andrew Nelson and Richard Roback, have submitted a petition to have this street vacated. One of the residents, Andy Nelson, was given a license by the City to utilize half the right of way to remediate septic system and well issues. The residents have been advised that since these are platted City streets they must follow the requirements of State Statute 412.851 as follows:

The petitioners for this street vacation have been advised that the City can not sell this property but they can be charged the City's cost for expenses for this vacation.

At the September 7, 2011 City Council meeting, Council unanimously approve to proceed with process of vacation of Sylvan Street per requirements of 412.851 and upon completion of the requirements this will be presented to Council for final consideration.

Staff's recommendation to Council on November 2, 2011 was that the process of vacation of Sylvan Street as prescribed by Statute 412.851 proceed with the condition that shoreline of the vacated street be returned to and maintained in an undisturbed state as approved by the DNR and that a public hearing for this matter be scheduled for December 7, 2011. The public hearing was rescheduled to December 21, 2011 due to posting requirements. While staff recognizes the precedential consequences of the action of vacation, it also recognizes the need to address concerns regarding public health and water quality. For this reason staff recommends that this matter be tabled and staff be directed to seek alternative approaches to this matter that would address some form of property rights transfer/use/licensing in relation to water quality improvements and septic system issues and present this matter to Council for final consideration no later than April 4, 2012.

Voss made a motion to deny the petition for vacation of Sylvan Street. Boyer seconded. Moegerle said she disagrees. She said she thinks we can achieve what we need to do by tabling it and have it come back on April 4. Voss said they already have a license and there are ways to achieve what the landowners want to have in terms of assurances. Moegerle said her response is we can take care of this all on April 4th. If there is some nuisance and we have vacated it. She said we would be tying it all up together, that is her thought. Voss said there could be other ways that we adjust this licensing, but he can't see any reasoning why we would delay this. He said we have been clear that we are going to work with the landowners on the licensing. **Lawrence, Voss and Boyer, aye; Moegerle and DeRoche, nay; motion carries.**

Voss made a motion to direct staff to staff work with property owners on preparing an amendment to the current licensing agreement that will address the issues in terms of longevity of their systems that they want to put on as part of the licensing agreement and also drawings depicting where things are going to be so that they city still has some recourse within that improvement. Davis said just as a matter of information, one of the reasons we suggested the April 4th deadline is we wanted to check with the PCA to see if there were septic system alternatives, we will be working with Bill Dunn on this matter. He said the other reason was there couldn't be any construction done during this period, and this would give them time to go ahead and construct their septic system improvements once this was approved. Voss said and that is fine, if there are alternatives they wouldn't be using that right-of-way anyways. He said he doesn't think that is affected by it, and we have already given the license for it. **Boyer seconded.** Boyer asked what is the average life of a septic system that is installed today. Jochum said 15-20 years if it is taken care of. Voss said this is the tank and it will be there 50 years. But he will leave it up to staff to come up with a reasonable time. Boyer said he would be personally more comfortable if the life of this is 20 years if we have a review at halfway mark. **Moegerle made a motion to table the issue and have it come back on April 4th.** Vierling said there is a motion already. He said technically you can have a motion to table the motion, but he thinks you are both heading in the same direction. Moegerle asked but we don't have a deadline in the motion that is on the table. Voss asked are you tabling my motion? Moegerle said no, she is supplementing it. Staff recommended that the matter be tabled and resumed to bring back to Council on April 4th. Vierling said the motion to table would stand on its own. He asked are you intending then that staff would not move forward with a proposed amendment? Moegerle said well, no later than April 4th. Vierling said he thinks that no matter staff will come back with this. **Voss said he will amend his motion to add no later than April 4th.** Moegerle said okay. **Boyer seconded amendment; all in favor, motion carries.**

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

Consent Agenda **Boyer made a motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, December 7, 2011 Regular Meeting; C) Resolution 2011-63 Tort Limits; D) Res. 2011-64 Accepting Donation from Diane and Shawn Harder; E) Approve 2012 Tobacco Licenses; F) Approve 2012 Garbage Hauler Licenses; H) Set Special Meeting on January 4, 2011 at 6:30 p.m. to Interview and Appoint Commission Members.** Voss asked to pull item G) Resolution 2011-65 Phase Designations Municipal Utility Projects. Moegerle said she has spelling and grammar changes to the minutes. **Voss seconded; all in favor, motion carries.**

Resolution
2011-65 Phase
Designations
Municipal
Utility Projects

Item G - Resolution 2011-65 Phase Designations Municipal Utility Projects; Resolution 2011-65. Davis said we are having a lot of confusion among the residents regarding the phase designation of municipal services. He said we get two to three calls a week saying am I going to be forced to hook up to city water and sewer services. Davis said they say they saw it on the map as a phase. He said to him the phases are inconsequential at this stage. The development of the system is going to be developer driven. Davis said there is really no timetable for it. He said we had originally set this up as a planning instrument. We have passed that now and it is causing more confusion than clarification. Davis said personally he doesn't see a whole lot of value in keeping these phase designations and hopefully this would clear up some of the confusion.

Voss said he appreciates this because he knows we had this issue even a couple years ago and most notably, Phase 1A, that was going to hook up along the lake. He said but he doesn't see how this is going to change the question that keeps coming up from residents about being hooked up, because either way they are still within the corridor. Voss said he agrees the question about when might be easier. Davis said it is more the arm along Viking towards Coon Lake Beach. He said those in the corridor will still have same issue, but it will take away the emphasis. Davis said services will not be extended northward until funds are available, instead of it saying in 5-10 years or Phase 4. DeRoche said and we are not even sure if we are going up to Castle Towers or not. What is that, Phase 4? Voss said but that was part of having the numerical, so it showed that it was going to be a phased development of the utilities. He said so it showed that it wasn't going to all of a sudden go up to the north side, something had to happen in between. Voss said because you had to is why we had these, if so that we weren't jumping around. Davis said the only problem with that is what if we had this large development that wanted to locate on the Wyatt property next to Cemstone and they said we will pay for the extension of the service up the whole corridor. Voss said he is fine with taking away Phase 1A along the lake, because that was just convenient, something to call it. He said and certainly the years on the drawings don't apply any more. Davis said now that we are starting to find out that Phase 2 might start in 2 years, or in 20 years, that it might go to Sims or to 221st. And with the fact that everything will be developer driven, the phase issue isn't considered to be essential to the project. DeRoche said he thinks it would eliminate all the confusion. Voss asked would we need to change all the maps? Davis said he wouldn't change any maps. He said we would just stop referring to any phase designations. Voss said when we come to a time when we need to change something we can fix it then. Davis said that is correct.

Voss made a motion to adopt Resolution 2011-65 Phase Designations Municipal Utility Projects to be discontinued until the time of their construction. Moegerle seconded; all in favor, motion carries.

Branding &
Marketing

Davis explained that on December 14, 2011, EDA and City Council held a special meeting to interview four (4) potential consultants to market and brand the City of East Bethel. These candidates were selected from RFP's that were submitted by seven (7) firms and screened by the EDA at their November 2, 2011 meeting.

Based on interviews at the December 14, 2011 meeting, the EDA narrowed the selection to Sharp Creative/Landform and Ady Voltedge as the top firms. Each firm proposes to begin work on this project in January 2012 with a completion date of all deliverables in May 2012.

Landform is a multi-discipline firm, based in Minneapolis, providing development services to both public and private clients throughout the United States. Some of their more recent

work includes work in several communities to assist EDA's or HRA's to manage and facilitate growth in their communities. The most applicable example is for the City of Ramsey, MN HRA to re-vision, re-brand, and re-develop their downtown development known as The COR.

Sharp Creative is a separate, but in-house entity of Landform, focused solely on the branding, marketing, and communications. Their work includes the creative components such as logos, and marketing materials, but also concentrates on the market forces and factors that make those efforts effective. Their recent work on Ramsey, Stones Throw, and Minneapolis Parks Board are examples of effective repositioning efforts and establishing brand identity. The costs proposed by Sharp Creative/Landform are estimated at \$43,880 as outlined in their RFP proposal.

Ady Voltedge is a market research, design and communications firm based out of Madison, WI. This consulting firm has extensive experience with community and economic development branding capabilities and provided many examples of successful projects during their interview. Ady Voltedge also has regional connections through Metro MSP and serves on the Mid America Economic Development Council. Ady/Voltedge has extensive experience with a broad based clientele throughout the Midwest. The costs proposed by Ady/Voltedge are as outlined in their RFP proposal and not to exceed \$31,005 with an option of repeating the survey up to two years from the completion of the initial contract for an additional cost of \$5,000.

There is currently \$25,000 in the EDA budget included in the professional service fees and \$22,488 in the EDA's contingency fund to cover this cost.

EDA recommends to City Council that Sharp Creative/Landform and Ady Voltedge be considered as the top candidates for the Marketing and Branding Project for the City of East Bethel. EDA further recommends that City Council select one of these firms as the Council's choice as the consultant to be awarded the contract for the Marketing and Branding Project.

Voss made a motion that the city contract with Ady Voltedge to assist the city in their marketing and branding issues. Boyer seconded. Moegerle said she thinks when there is a vote like this, like when we interview candidates for commissions, we should submit a ballot vote. Vierling asked like a roll call vote? Moegerle said no, like when we interview for commissions. We submitted a ballot of who our vote was for, and then they were tallied and announced by the Mayor. She said and she would suggest that we use that format for this. Boyer said this is a contract. Voss said that is basically just a straw vote. He said he thinks we did it because in that situation we are dealing with residents. Vierling said there is nothing that precludes that. The vote will be a matter of public record anyways. He said it will be a matter of whether you use a voice call vote, roll call vote or a written vote. Moegerle said it was just a procedural matter. Boyer said Vierling's point is you are still going to have to know how every Council Member voted. Vierling said absolutely, the record will have to reflect what the public vote was.

Voss said the interviews he thought were interesting. He said in many ways he didn't know what to expect and of the four that were interviewed he thought there was a good approach. Lawrence asked what stood out about this company for you? Voss said he thought that Janet Ady made the presentation; he thought there was a lot of experience that was there. He said the way they presented themselves. Voss said the way a lot of their focus was on working

with the community, the community meetings. He said it is not the consultant saying, "This is what you need to do because this is what works. Its drawing out of the community what the community wants."

Lawrence asked did you think their proposal was the strongest? Voss said yes and no. He said he thought one of the other consultants; the one that had the non-proposal was pretty interesting also. Voss said but the idea of developing the approach and strategy, it just felt like our chances of being successful at it. Moegerle said this is a big decision and there is a lot to be said about that. She said looking at what Sharp Creative has submitted on meeting with the community on this issue, she is not seeing what the difference is on the two. It is not that they are not going to be involved with the community. Voss said he did not go in and look at the details on the proposals. He said and the presentation that was made between the two of them. Moegerle said and correct me if she is wrong, but she thought he also said they would be telling us what was wrong and how to present the city. Voss said he has better confidence that from the presentation, they would have a better focus on the community base. It seems like more of their focus was meeting with the city, the residents, and the stakeholders group to gain an understanding and then synthesize going forward. He said he is not saying Sharp Creative/Landform wouldn't do this.

Moegerle said there is one advantage Voltedge has and that is the nearly \$13,000 difference in cost. That is an issue. Voss said he agrees it is dollars. He said it is a huge issue, but he is going to be biased as a consultant. You are hiring the expertise. There is different expertise and different levels. Voss said the one part of the RFPs, and it was written to it is the branding piece, he is nervous about it. He said he is bullish on whether or not that is a huge issue we need to address. The marketing part of it and developing a plan, he agrees we need to address that. Moegerle said the RFP did not address the idea of implementation. She said this is a question we are going to face sooner or later and it will be an important one. Moegerle asked is the city planner going to implement this, or do we need to hire a consultant? She said this is a major investment as far as our future and the success of the city.

Voss said he will not be surprised if in the end we don't follow the scope of what was in the RFP. He said that is why you have consultants to work with that. Voss said he saw more opportunities. It is just his preference. Moegerle said she checked references for both. She said and she checked the website for each one. Moegerle said she called some references for each one, and it was remarkable how well matched they were. She said however, with the two that did not make the finals, that was not the case. So that speaks well of these candidates. DeRoche said whatever decision is made; he hopes we are not going to just do whatever the consultant comes across with. He said because we are in a situation now where we are pretty much starting over trying to identify the city. DeRoche said people are going to be looking to see if we make a difference or we are out of our minds. Moegerle said the conversation she had with our city planner is Elk River was working with someone from Tennessee and they brought all the packaging in from ground zero. She said on the other hand, Landform has had some dealing with the city in the past. Does that bear on your decision or view. Moegerle asked does that make a difference? DeRoche said it was pretty obvious when Ady came in that they had done a lot of research. He said they were pretty descriptive in what they thought we needed to do; a little more vibrant. Voss said he works all over the country and you learn where you are at. Voss said he did see that too. He said if they hadn't told us, he wouldn't have known they were from the next state over. They spent some time researching. DeRoche asked who Davis preferred. Davis said this is a council decision; we can work with either one firm. **Boyer, DeRoche, Lawrence, Moegerle, Voss,**

aye; motion carries.

Planning
Comm.
Minutes

Davis explained that the November 22, 2011 Planning Commission unapproved meeting minutes are provided for your review and information.

Sylvester
Metes/Bounds
Subdivision

Davis explained that Genevieve Sylvester Limited Partnership and the applicant are requesting approval for a metes and bounds subdivision. The original parcel is forty (40) acres in size. The subdivision would create two (2) parcels: one (1) parcel being ten (10) acres (original homestead site) and one (1) parcel being thirty (30) acres. City Code states that metes and bounds subdivisions are required to have a minimum of 5 acres, however, if the parcel is in the future municipal services area, 10 acre minimums are required. The subdivision meets current city code requirements.

The property is zoned B3-Highway Business and I-Light Industrial. The legal, non-conforming homestead is located on the B3 – Highway Business zoned property. Once the property is subdivided, the homestead will be ten (10) acres in size and zoned B3 – Highway Business. The remaining thirty (30) acres is zoned I-light industrial with the northwest corner zoned B3-Highway business.

City code requires park dedication for commercial parcels to be either five (5) percent of land or cash equal to the market value of the land, not to exceed \$4,500 per acre. If cash is the recommended park dedication, the property owners will be required to submit an appraisal to City Council. The park dedication fee will be determined by the approved appraisal. At this time the property owner(s) are requesting the park dedication fees be paid at the time “parcel B” is platted. Park dedication fees will be paid for parcel A and parcel B at the time of platting. If park land dedication is paid at a later date, it has been recommended by Mark Vierling, City Attorney, that a pre-development agreement be executed. The agreement will state that the property owners for parcel B will assume the responsibility of paying park land dedication fees for parcel A and parcel B at the time parcel B is platted.

The metes and bounds subdivision was placed on the December 14, 2011 Parks Commission meeting agenda, at which time the Parks Commission recommended to City Council the park dedication be paid at a later date contingent on a pre-development agreement to be executed.

Planning Commission recommends a metes and bounds subdivision approval to subdivide 40 acres to create two (2) parcels being 10 acres, and 30 acres for the parcel known as 1742 221st Avenue NE, PIN 08-33-23-11-0003, with the conditions listed in your packet.

Boyer made a motion to approve the request of Genevieve Sylvester Limited Partnership and Eileen Frisch for a metes and bounds subdivision to subdivide 40 acres to create two (2) parcels being 10 acres, and 30 acres for the parcel known as 1742 221st Avenue NE (PIN 08 33 23 11 0003) with the following conditions: 1) Property owners must file a drawing identifying the location of the current septic system, well, and secondary location for the septic system; 2) A current ownership and lien report must be provided for the affected lands; 3) Prior to building permits being issued for “parcel B”, primary and secondary sites for water and septic systems must be identified; 4) Dedication of storm water ponding area is required before any further development is allowed or building permits issued; 5) Pre-development Agreement must be executed to address future payment of park dedication fees for parcel A and

parcel B. Moegerle seconded. Moegerle asked about the (proposed) frontage road. Where is the property in regard to that. Davis said if you look at the handout that Jochum brought and look at the last page, the western boundary of property, the access comes in there. This was all designed and split to accommodate the access road at a future date. Voss asked why do we have a radius on that western property line. Jochum said that is the east line. Voss asked so there is no outlot there? Davis said the radius is part of the road to be incorporated. Voss said normally when we do this, metes and bounds, we mandate that they have straight lines, but we are putting in a curve. **All in favor, motion carries.**

Park Comm.
Minutes

Davis explained that the November 9, 2011 Park Commission unapproved meeting minutes are provided for your review and information.

Snow Plow
Policy

Davis explained that the League of Minnesota Cities Insurance Trust has requested municipalities to establish a written policy for the management of snow and ice event maintenance. Per the recommendations from the League, a written policy is needed because it provides the city with a consistent and documented method of doing snow and ice removal. It also provides guidance and assistance to employees on how to do the work and a way to measure employee performance.

The existence of and adherence to an adopted policy is another layer of liability protection and is recommended as a standard operating procedure by our insurance carrier.

Road Commission has reviewed the Snow Plow Policy and recommends approval of the policy for consideration by City Council.

Boyer made a motion to approve the Snow Plow Policy as outlined. Lawrence seconded. Moegerle asked we had the recent snowfall. Did we have 2 inches? She said then we had another one and we only had about ½ inch and people complained. She said this policy talks about commencement with snow of 2 inches. So the people that complained, this doesn't cover it. Moegerle said our response is going to be, "It isn't in our policy." She asked so when she looks at this, you (Davis) have to answer those calls and give a response. Moegerle asked What would your response be considering the most recent snowfall? Davis said he thinks there is a provision in there that it is up to the discretion of the Public Works Manager to take into consideration special weather events. He said and he can call people out to plow at his recommendation. Boyer said and if there is ice, not snow, we will have to act on it. Voss asked on the property damage part, he saw a lot of mailbox stuff, but he didn't see anything on the sodding and seeding. Davis said it wasn't addressed, but since it is city right-of-way, we do take care of it, but we don't do irrigation repair. Moegerle said she understands this is to help minimize liability. She has a correction on Page 78, subd. X, frequent and irritable should be irritating problems. Then the second to last sentence, change Driver's to Drivers. Boyer said he has no problem with any changes of typos and bad verbiage. Davis said again this is the League of Minnesota Cities verbiage. He said there are cases where cities have been successfully sued because of policies or lack thereof. **All in favor, motion carries.**

Street Sign
Retro-
reflectivity
Policy

Davis explained that the Manual on Uniform Traffic Control Devices (MUTCD) of the Federal Highway Safety Administration establishes standards for traffic signs on public roads. Recently adopted regulations for MUTCD now require all agencies/municipalities to adopt a sign maintenance program which meets the new minimum retro-reflectivity requirements for traffic signs. All agencies/municipalities that own and maintain traffic

signage are required to meet these new requirements.

Agencies/municipalities had until January 2012, to establish and implement a sign assessment or management method to maintain minimum levels of sign retro-reflectivity. The compliance date for regulatory, warning and ground mounted guide signs was January 2015. For overhead signs and street name signs, the date was January 2018. City staff has drafted a street sign maintenance policy that meets these requirements of the MUTCD.

Was notified that this requirement has been extended. Staff will update Council as new information is received.

Boyer made a motion to table the Street Sign Retro-reflectivity Policy. DeRoche seconded; all in favor, motion carries.

Pay Estimate #6 for the Construction of Municipal Well No. 3 and No. 4

Jochum explained that attached is a copy of Pay Estimate #6 to Traut Wells, Inc. for the Construction of Municipal Well No. 3 and No. 4. The major pay items for this pay request include the DNR 7 day pump test and the installation of the pitiless adaptors for both wells. Pay Estimate includes payment for work completed to date minus a five percent retainage. We recommend partial payment of \$81,025.50. A summary of the recommended payment is as follows:

Total Work Completed to Date	\$ 288,624.25
Less Previous Payments	\$ 193,167.54
Less 5% Retainage	<u>\$ 14,431.21</u>
Total payment	\$ 81,025.50

This estimate includes payment of \$81,025.50 to Traut Wells, Inc. 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 #6 and direct staff to release payment in the amount of \$81,025.50 to Traut Wells, Inc. for the Construction of Municipal Well No. 3 and No. 4.

Boyer made a motion to approve Pay Estimate #6 in the amount of \$81,025.50 to Traut Wells, Inc. Lawrence seconded; all in favor, motion carries.

Change Order No. 4 for Municipal Well No. 3 and No. 4

Jochum said Well No. 3 was designed for 500 gallons per minute. It was anticipated that this well would be constructed in Wonewoc Sandstone Formation. A yield test was completed and it was determined that the Wonewoc Formation would not produce an adequate quantity of water.

At the August 17, 2011 Council meeting it was proposed to construct a naturally developed gravel well. At that time it was anticipated that the redesigned well would provide at least twice the quantity of water as the original design. The recent test pumping confirmed that this well will produce in excess of 1,000 gallons per minute. In order to obtain the 1,000 gallons per minute the well pump motor must be upsized from a 60 H.P. to 75 H.P. and the drop pipe must be upsized from a 6 inch to an 8 inch.

The drop pipe length in both wells can be shortened from the original design. The cost

savings from the shorter drop pipes and the cost increase from the larger pump motor and drop pipe for well No. 3 result in a net increase in this project of \$3,868.58 as summarized on the attached change order.

The variable frequency drive (VFD) and power supply line for well No. 3 will be included in the Water Treatment Plant bid. It is estimated that the increase in wire size and VFD will increase the Water Treatment Plant cost \$5,000. Therefore, the total increase in costs anticipated for the proposed changes is \$8,868.58.

With the proposed upgrades to well No. 3, the total pumping capacity for both wells would be approximately 1,500 gpm. The footprint of the Water Treatment Plant is designed for 1,500 gpm; therefore a third well will not be required to meet the design capacity of the Water Treatment Plant.

The net increase in cost to upsize the well pump motor and drop pipe for well No. 3 is \$3,868.58 for this project. It is also anticipated that the Water Treatment Plant bid will increase approximately \$5,000. Bond proceeds within the project construction fund are available to pay the costs associated with this well revision.

Staff recommends Council approve Change Order No. 4 to Traut Wells, Inc. in the amount of \$3,868.58.

Boyer made a motion to approve Change Order No. 4 to Traut Wells, Inc. in the amount of \$3,868.58. Voss seconded. Moegerle asked we have two wells named #3 and #4. Jochum said yes, well #1 and #2 are at Whispering Aspen. So this is your 3rd and 4th municipal wells. **All in favor, motion carries.**

Change Order
No. 4 for the
Phase 1,
Project 1,
Utility
Improvements

Jochum said the bids for the proposed Water Treatment Plant (WTP) will be opened on December 28, 2011. This project will include the construction of sanitary manholes and sewer pipe extensions to service future areas and extension of service to the WTP. One of the manholes and 72 feet of sewer pipe require dewatering as part of the construction of the sanitary facilities. This piping and the manhole are directly connected to the last manhole that S.R. Weidema will be installing as part of the Phase 1 Project 1 Utility Improvements. Also with the redesign of the WTP the top of one of the manholes that S.R. Weidema will be installing needs to be raised 6 feet. The improvements considered with this change order are highlighted on Attachment 2.

Since S.R. Weidema will have dewatering set up to install the manhole adjacent to these improvements and given that their bid prices are based on much larger quantities than those needed for the WTP staff anticipates that construction of these adjacent deep facilities will be less expensive adding them to the S.R. Weidema contract.

The total change order amount is \$18,823.65. This change order will not increase the overall cost of the phase 1 municipal utility projects. This work will either need to be completed with the current contract with S.R. Weidema for the Phase 1 Project 1 Utility Improvements or with the contractor that is awarded the Water Treatment Plant project.

Staff recommends Council consider approval of Change Order No. 4 to S.R. Weidema in the amount of \$18,823.65.

Boyer made a motion to approve Change Order No. 4 to S.R. Weidema in the amount

not to exceed \$18,823.65. Lawrence seconded. Lawrence asked do you have any other information on this. Jochum said if you look at attachment 2, the manhole by the driveway needs to be raised 6 feet. He said previously the Water Treatment Plant (WTP) was going to use the driveway there. Jochum said we are realigning the access to the WTP within our right-of-way. As you go to the east that sanitary manhole needs to be raised. As you go to south, needs to be new pipe, either needs to be constructed by the contractor or S.R. Weidema. Jochum said the next manhole to the south is a brand new manhole and to the west, a whole new line needs to be constructed. DeRoche said either way it needs to be done. It is either we have Weidema do it now. Jochum said right, but the thought is, "Those are the only deep structures on WTP site, and they are already dewatering there now." So someone else would have to come in and do the same thing. DeRoche said so, we would be better off having them do this now. **All in favor, motion carries.**

Landborg
Wetland
Credits

DeRoche made a motion to table the Landborg Wetland Credits, to gather more information and have the City Attorney go over the paperwork. Vierling said the council member asked if he had taken a look at this. He said he had talked to the city planner earlier in the week and she had explained this to him. Vierling said he suggested since this is a 2007 transaction, we have not seen the transactional documents upon which the fact premises are being found here. He said so it would probably be a good idea to (do that) due our due diligence and make sure those transactional documents exist and things were actually conveyed the way they appear to be here. **DeRoche said for two weeks. Boyer seconded.** Jochum said that is fine, but if you don't have any interest there is no need to bring it back. If you do, it would be good to know which option you are interested in. Boyer said he is much more interested in option 3. Jochum said it was going to be an item of discussion and then of course the city attorney would need to look at all the documents. **DeRoche withdrew his motion to table.**

Jochum said in summary, 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.

Option 1:

Mr. Landborg pays for costs incurred so far by the City, completes the work needed to finalize his wetland obligations on the Viking/TH65 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 Mr. 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 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.

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 Savings for the Water Treatment Plant is \$49,000.

Option 3:

The City assists Mr. 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.

City-incurred costs would include approximately **\$11,553** as outlined below:

- Monitoring Report: \$1,500
- Certificate of Compliance: \$100
- Additional TEP meetings/correspondence/permits: \$2,500
- Current Landborg review costs: \$2,453
- Additional vegetative management of wetland bank: \$3,000
- Conservation easement: \$2,000

Estimate Value of the Wetland Credits is \$81,675.

Moegerle said she is interested. She would like to know how long TEP takes to review this. Is this like going through Met Council or is it an abbreviated review? Jochum said TEP is a fairly quick process. He said it can be done within a month. Jochum said it would make sense to have the city attorney review the paperwork. He said we don't want to go to him and say, "This is what we want" and then we can't do it. Moegerle said if we indicate to staff what option we are interested in, that would help. She said she personally is very interested in option 3. Jochum said this is a very nice wetland site. He said the only downside to 3 is the conservation easement. Moegerle asked about dedication of conservation easement. Jochum said it is a conservation easement, but in Mr. Landborg's name. He said you probably can't bank it in his name. Jochum said that is why he would rather be confident about what you want to do. Boyer said he thinks everyone wants to go ahead with Option 3 if not Option 2. Jochum asked so you want us to bring it back to you in two weeks? Vierling said we will bring it back to you promptly. Voss said as soon as possible, there is no time driver here, correct?

2011 Budget Amendments

Davis explained that the 2011 Budget was adopted by City Council on December 1, 2010. Since that time a number of changes have occurred that affect the current years budget, resulting in both increases and decreases to several General Fund departments.

The following is a detail of proposed amendments to the adopted 2011 Budget.

City Administration

		Adopted	Proposed	Increase (Decrease)
101	Full-Time Employees Regular Salaries	\$139,589	\$199,619	\$60,030
122	PERA-Coordinated Plan	\$10,298	\$6,598	(\$3,700)
125	FICA/Medicare	\$9,165	\$14,085	\$4,920
126	Deferred Compensation	\$6,500	\$1,750	(\$4,750)

The above increases and decreases totaling \$56,500 in the City Administration Department reflect the City Administrator settlement, the Acting City Administrator and the current salaries of the City Administrator and the addition of the Receptionist positions.

141-Unemployment Benefit Payments

Approved: \$3,091
 Proposed: \$6,091
 Increase: \$3,000

Increase reflecting the unemployment benefits for support staff position eliminated in 2009.

231-Small Tools & Minor Equipment

Approved: \$ 0
 Proposed: \$1,000
 Increase: \$1,000

Increase due to laptop computer purchased for former Acting City Administrator

City Clerk

102-Overtime

Approved: \$ 500
 Proposed: \$11,500
 Increase: \$11,000

Increase to account for the overtime hours worked by the Deputy City Clerk and the recording of evening meetings when the cable technician is unavailable.

103-Part-Time Employees

Approved: \$9,996
 Proposed: \$ 996
 Decrease: \$9,000

Part time employees were budgeted in 2011 to work on a laser fiche scanning project. That project did not take place in 2011.

Legal Department

303- Legal Fees

Approved: \$140,000
 Proposed: \$160,000
 Increase: \$ 20,000

Estimated legal fees for 2011 are \$160,000 reflecting the change in City and Prosecuting attorney along with expenses incurred in 2011 with the League of MN Cities who is representing the City in the Great River Energy case.

Human Resources

	Adopted	Proposed	Increase (Decrease)
101 Full-Time Employees Regular	\$85,085	\$10,885	(\$74,200)
106 Temporary Wages and Salaries	\$0	\$2,600	\$2,600
122 PERA-Coordinated Plan	\$6,083	\$383	(\$5,700)
125 FICA/Medicare	\$7,395	\$1,095	(\$6,300)
126 Deferred Compensation	\$2,000	\$0	(\$2,000)
131 Cafeteria Contribution	\$10,732	\$732	(\$10,000)

141 Unemployment Benefit Payments	\$0	\$13,100	\$13,100
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These increases and decreases totaling a reduction \$82,500 in the Human Resources Department reflect the elimination of the Assistant City Administrator/Human Resources position along with unemployment benefits and the employment of temporary staff as the City receptionist.

Recommendations

With the proposed changes noted above, there is no increase or decrease in the total General Fund Budget.

Staff is looking for direction on adoption of Resolution 2011-66 the amends the 2011 General Fund Budget and allows the expenditure of \$9,750 to Landform, originally charged to the City Council's budget to be transferred to the Utility Construction funds which were financed by bond proceeds.

Moegerle made a motion to adopt Resolution 2011-66 to amend the 2011 General Fund Budget and allow the expenditure of \$9,750 to Landform. Lawrence seconded. Voss said last comment about \$9,750; he thought bond counsel said we couldn't do that. Davis said they did. But it was after we got that original feasibility study (we found we could do this). He said this was originally charged to general fund. But \$9,750 can be charged to the utility project. There is another \$24,000 that cannot be. DeRoche asked about the \$265,000 for building inspection. Davis said that was the adopted budget for 2011. It reflects three positions in that department. Voss asked do the salary reductions start January 1st? Davis said the salary reduction started September 25th of this year. Voss asked why isn't the amended budget lower than. You said we started the salary reductions in 2011. Davis said there should be salary reduction in there. He said he will have to check on that with the finance director. Davis said we need to pass this amendment tonight and then we can give you the correction on the 4th. **All in favor, motion carries.**

GASB 54 Fund Balance Policy

Davis explained that the Governmental Accounting Standards Board (GASB) has issued GASB 54 statement which requires government to establish and implement a fund balance policy that includes five categories for fund balance reporting.

The following is a description of the new categories:

Non-spendable: This category includes fund balance that cannot be spent because it is either (i) not in spendable form or (ii) is legally or contractually required to be maintained intact. Examples include inventories and prepaid amounts.

Restricted: This category includes amounts that have an externally imposed constraint for a specific purpose, by external parties or legislation. Constraints are legally enforceable. Examples include unspent bond proceeds, park dedication fees, unspent grant proceeds, Cable PEG Access fees and accumulated amounts in debt service funds.

Committed: This category includes amounts that have a self-imposed constraint for a specific purpose. Commitments require a Council resolution to make the constraint and a Council resolution to change or remove the constraint. Fund balance commitment resolutions must be adopted before the end of the year, but the exact amounts can be determined after year-end. The specific purpose can range from not

very specific (i.e., for building improvements, street capital improvements, park capital improvements and park trail improvements) to very specific.

Assigned: This category also includes amounts that have a self-imposed constraint for a specific purpose. The constraint demonstrates the Council's intent. The Council authorizes the Administrator and the Fiscal Services Director to assign fund balance that reflects the Council's intended use of those funds. Assignments will be approved by Council motion. Remaining positive amounts in governmental funds other than the general fund are considered assigned.

Unassigned: This category includes amounts that are available for any purpose. Unassigned fund balance is reported only in the general fund and in other funds with negative fund balances.

Staff is recommending review of Resolution 2011-67 and adopting the GASB 54 Fund Balance policy.

Boyer made a motion to adopt Resolution 2011-67 Adopting the GASB 54 Fund Balance Policy. Voss seconded; all in favor, motion carries.

Resolution
2011-68
Setting 2012
Fee Schedule

Davis explained at the December 7, 2011 City Council meeting staff was directed to provide information to Council on a number of fees on the current fee schedule.

The attached spreadsheet provides information on liquor, tobacco and automobile dealer license fees in several area communities and Resolution 2011-68 Establishing the Fees to be Collected in the City of East Bethel.

Fees income represents about 2% of the total General Fund Budget exclusive of Building Permit Fees.

Staff requests direction regarding the proposed 2012 Fee Schedule and approval of Resolution 2011-68 Establishing the 2012 Fee Schedule.

Boyer made a motion to adopt Resolution 2011-68 Establishing the 2012 Fee Schedule. Council will submit their changes to staff and staff will do further research and bring this back to Council for any further changes as needed. Voss seconded. DeRoche asked weren't we going to look at these and see if we wanted to lower them? Davis said there are two that are time sensitive. These are licenses that are due by the end of the year; the tobacco and vehicle dealer license fees. He said we are higher than all but one. But, he said, as we discussed last time, we don't make anything on these. Davis said if a reduction is made on tobacco license, it could lead to other businesses taking out licenses. He said if you look at the fees overall, we are higher on some, lower on some and some we don't charge a fee. Davis said if any change is made, we can refund them. DeRoche asked how many dealer licenses do we have? Davis said five.

Voss said what he saw is there is not just a few, but all metro cities. He said the ones we are lower on, are the higher fees. Voss said maybe this is something we work on in the next six months. Moegerle said she thinks this is something we need to be aggressive on because, from a standpoint of the EDA \$50 for liquor off-sale isn't big bucks, but is it having a negative effect on attracting business here. She said if it is arbitrary and a disincentive to folks then we need to look at it. Voss said the people that are going to complain about it, are the ones in the category of the high. He said whereas you look at the on-sale liquor we are \$1,000's less. Voss said the times he has been involved and we have gone through this twice

in terms of adjusting fee schedules. Lawrence said tobacco; that is high from other cities. Boyer said that is one we lose money on. Davis said there is a little paperwork in this. We have to follow up with them to remind them to get applications in. He said and they can buy their product for resale. Boyer said and there is prosecution involved. Davis said one thing might be an advantage. We can see the median levels, another basis for comparison.

Lawrence said he would like to see some changes done on this. He asked about the transient merchant license. Voss said we had issues four years ago. Some businesses were setting up shop in all the gas stations. Lawrence said the tobacco fee should drop to \$100. Voss said but we are on the high end for tobacco, we on the low end for on-sale. He said he is suggesting we do a broader analysis. Boyer said he is not opposed to lowering fees if we are not losing money. Lawrence asked why should all the vendors have to pay for one person screwing up? He asked how many cases did we have for tobacco? Vierling said we had two. Lawrence asked how much do we lose on each case? Vierling said he is not sure. He said alcohol compliance they are far more serious about not losing that. DeRoche asked how about we go through here and send our suggestions to Davis? Voss asked aren't our tobacco fees all paid? Davis said yes.

Moegerle asked about our recreational fees. Lawrence asked about our building permit fees. Siding, window, roofing, what is the significance of having them come out if you are doing something to your windows? Why do they (come out)? DeRoche asked does this drive people away and make them not pull a permit? Voss said the fee is to cover the cost of the building inspector going out and inspecting it. He said the reason we have inspections is not necessarily for the homeowner today, it is maybe for the homeowner 20 years from now. Boyer said the state requires us to do this. Moegerle said but this isn't \$50 per window. Voss said but the idea is to protect the homeowner, to make sure the contractor didn't cut corners. Lawrence said it is just an unusual thing to him. DeRoche said if you are going to work on your home and doing it yourself and not planning on going anywhere; in his opinion, that is why a lot of people do a lot of things and don't pull the permit. Because of the fees. DeRoche said he looks at this like the foundation, electrical, roof, main kind of things stuff like that. He said but if it is a door, window? DeRoche said but if it is required by the state, it is the state. Boyer said there was a suggestion to pass this tonight and give staff markups and they can get more information together. Moegerle asked didn't we change the building moving ordinance? Hr question is if the building moving fee has been updated? Vierling said he didn't think we stated the fee in the ordinance; it is to be adopted by resolution. Lawrence asked how long did it take to develop this? Davis said it took a day and a half to two days to develop this information. He said it might take a week to develop the information. **All in favor, motion carries.**

ATV Ordinance

Davis explained at the request of Council Member Bob DeRoche, changes have been made to the City ATV ordinance. This proposed Ordinance amendment would amend Sections 70-85, 70-86 and 70-88 of the Code of Ordinances of the City of East Bethel. The proposed amendment would delete these sections and replace them in their entirety with the changes as submitted in the attachments.

The Road Commission has reviewed the proposed changes and recommends approval of the amendments to the ATV Ordinance to City Council for consideration.

Moegerle made a motion to adopt the amendments to the ATV Ordinance. DeRoche seconded. Voss said he has two things on this. He said obviously the biggest change on this is allowing Off Road Vehicles to use city streets as their path for transportation. He said

right now they are not allowed on city streets. Dirt bikes, ATVs, mini-bikes, none of that is allowed on city streets. Voss said it is on page 143. All Terrain Vehicle, Off Road Vehicles. Moegerle said the term Off Road Vehicle does not include those things you just listed, she believes. Voss said on the middle of 173, Section 70, operating on city rights of way, it looks like it is redundant. Shall be allowed to operated an All Terrain Vehicle, Off Road Motorcycle or Off Road Vehicle upon the city streets. He said then above in the definition of Off Road Vehicle does not include All Terrain Vehicle. Moegerle said that is why we have to add All Terrain Vehicle and Off Road Motorcycle every time that shows up (in the ordinance). Moegerle said the purpose of this is so we exclude snowmobiles, water vehicles, vehicles being used for farming, military, or fire emergency. DeRoche said page 6 of the (DNR) synopsis defines this. Voss asked but we don't reference this in the ordinance right? DeRoche said but any use in the state goes under this before anything the city does. Voss said he understands that. But if that is the case, the ordinance should reference state definition. Voss said if we have an ordinance it can supersede the state, right? Vierling said if it is more restrictive. However, that would apply only to the areas which you have jurisdiction, not over the areas where the Commissioner of the DNR has jurisdiction.

Voss said his point is it seems this thing is circular in what we say. Lawrence said the first part says what it means. Voss said it says it doesn't mean Off Road Vehicle does not mean All Terrain Vehicle. Moegerle said she thinks it is because we are taking the definition from this (DNR) document. It is a definition of exclusion, not inclusion. DeRoche said he presented this to our local CO, Travis Meyer. He asked him if he thought it was enforceable. DeRoche said and he thought it was. Boyer asked Vierling if he reviewed it. Vierling said yes, we did. He said in some respects the definitions are going to be confusing to the average layman. Vierling said in part it is because of what the state has done with these exclusions. He said it is not uncommon that cities that are trying to use that. Moegerle said she thinks mini-bike falls under Off Road Vehicle. Voss said but a mini-bike will be allowed. Moegerle said correct. Voss said the issue that will more broadly affect our residents are the city streets. An unlicensed dirt bike will be allowed to ride down city streets. DeRoche said not according to state law.

Voss said it is unfair to the sheriff to make them judge who is a resident or not of the city. He said basically it is saying if you are a resident of the City of East Bethel, you can ride a ATV, off road motorcycle or off road vehicle on the city streets. Because they are not allowed now by city ordinance. DeRoche said the intent is for all terrain vehicles, which are defined. Voss said regardless of class, some ATVs you are suggesting should be allowed to drive on city streets, and off road motorcycles and off road vehicles. DeRoche said on the far right hand side, yes. He said there are a few people that are against it, but there are a lot more people that are for it. DeRoche said he talked to a lot of Anoka County deputies and they did not seem to see an issue with it. He said again, if you are riding an ATV that has tires that are designed for dirt, you are riding a unstable ATV. Voss just trying to draw out the point that you want to change out the ordinance to allow ATVs to be road on city streets. Voss asked are they licensed? DeRoche said they are registered. He said that is the reason he went down and got the (DNR) synopsis and it is at the city desk. He said part of the reason the ordinance was put in, it was an umbrella ordinance that penalizes everyone because a couple people were upset. Voss said it was lightly due to damaged lawns.

Lawrence asked about golf carts, where does that line up on this? DeRoche said it is not an ATV by state definition. Boyer asked you can't ride an ATV on state roads or county roads? DeRoche said you can ride in the ditch on county roads. Bob Jacobson said a Class II ATV can ride on the side on the state highway. He said and you have to have a Minnesota License

to drive an ATV, age 16 to ride. He said and on the water, such as Coon Lake, you cannot stop someone from riding on it when it is frozen, resident or not.

Voss said obviously this will have an impact and he can guarantee we will have complaints, so why not get this out there that we are considering changing this and get input on it. He said why don't we put this in the next newsletter that we are thinking about changing this and get more public input, both ways. Moegerle asked is there a seasonal reason to change this? DeRoche said the people that use these to plow, use them for work. We don't have ditches at Coon Lake Beach. He asked if there are a lot of complaints on ATVs. Jacobson said one of the reasons the original ordinance got started was because the mayor had an ATV driving on his lawn. Boyer said we had a dirt bike race track, and we formed a work group to formulate a ordinance, and that was not very many years ago. DeRoche asked how does this affect me? Vierling said it is not uncommon for communities, if they adopt this type of ordinance to put in a seasonal review to see if there was impact on the neighborhoods. Moegerle said in May she attended a meeting in Oak Grove and they decided they just wouldn't enforce anything (about ATV's on city streets).

Boyer said the issue he has seen is the people that want to legally drive ATV's, people can't do it. DeRoche said we held an open meeting, invited all the cities, Opportunity Ride North Anoka County. It was at Anoka County Fairgrounds, we wanted to connect all the trails. He said we had a PowerPoint set up, but no one showed up from East Bethel. Anoka County Parks is working with us. Boyer said you brought up the example that you live on Coon Lake Beach and can't get to the trails. He said just like Bob who lives on county road and can't get to state trail. Moegerle said we haven't addressed that issue and part of this change addresses that. Boyer said he thinks his issues would be nuisance issue as opposed to responsible riding issues. He said and he doesn't think we are at that point with this. Voss said if someone wants to get down to the lake that is one thing, but if they are running around the neighborhood, that is another thing. DeRoche said it is just like the conceal and carry law, everyone thinks it will create chaos, but you won't know until you try it. Voss said if you think the sheriff's office is going to be able to enforce and identify if people are residents, that is totally impracticable. Boyer said he has a neighbor to the east of him and across the street and all summer long so we ran off road dirt bikes. He said and he never complained about it. Moegerle said you had a choice to stop that and you chose not to.

Jacobson said if you pass this ordinance, you can put a speed limit on it. Which he would recommend. 20-25 MPH. Davis said our minimum speed limit is 30 except at Coon Lake Beach. DeRoche said the guy at DNR said the same thing. Voss said all he is saying is for something like this, would be nice to present it to the public so they can present their issues.

Moegerle said she could add a review of this in 90 days to see if there are complaints. She also asked about her changes she submitted. DeRoche said he is fine with those. He said he is sure you can go to the DNR website and pull up fatalities.

Moegerle amended her motion to add review this in 90 days, speed limit of 25 MPH and changes as she submitted be incorporated. DeRoche said maybe it should be 20 MPH. **Moegerle amended it to 20 MPH. DeRoche seconded.** Voss asked if we are going to change this, why not follow Oak Grove's model and ask the sheriff's office not to enforce it (he hates to say this). We are changing this without public input and then we can give the public notice and do this in 90 days. He said because right now you are changing this without public input. Moegerle asked DeRoche to explain the experience of Mr. Saenger. DeRoche said he was pulled over when going to a garage sale (80 year old) and the deputy

told him to either walk the ATV home or he was going to give him a ticket. He said Mr. Saenger had just had knee surgery. Lt. Orlando said she has not been able to verify that has ever happened. DeRoche said this happened about 1 ½ years ago. Lt. Orlando said and she doesn't know that any of her deputies would ever do that. Moegerle said it needs to be addressed. She said and at the beach it is an issue. Moegerle said and the other thing that that needs to be addressed is golf carts. Voss said you seem in such a hurry to get this done, he is trying to find a way to get public input. Voss said we didn't have anyone show up. DeRoche said every time we have a City Council meeting we have a packet and put it out. Moegerle said we are putting in the 90 day review. Let's give this thing a trial run. Maybe you are going to be proven right that this is a disaster. Voss said he is not even suggesting that. Moegerle said let's see how it works, we are never going to know unless we try it.

Boyer and Voss, nay; DeRoche, Lawrence and Moegerle, aye; motion carries.

Council
Member
Report –

DeRoche said the fire department is pretty busy. He said Fire Chief DuCharme just sent me a synopsis of what the training and everything going on next year. DeRoche said he and Lawrence went to fire department dinner. He said Tammy Gimpl is involved in a lot of stuff, fire fighter training, national training, and working on retired fire fighters to get them all together, card day or something. DeRoche said the lake is freezing up, but there isn't any snow. He said two weeks ago the fire department went out and cut a whole in ice and practiced for ice rescue. Lawrence asked how thick is the ice. DeRoche said there was 6-8 inches.

Council
Member
Report -

Boyer said Happy Holidays.

Council
Member
Report -

Moegerle said calling on references for the EDA branding and consulting applicants. She called one and they said "what is your e-mail". She said she thought it was a quick, painless way of getting an e-mail address. Moegerle said maybe this is something we should adopt at the front desk so we can get the e-mails of our residents. She said if we know they are a resident we can get their e-mail. That would be huge (for communication issues).

Moegerle said we did get a recycling grant. Davis said approval of continuation of existing grant. Moegerle said in the sheriff's reports we get the arrests and she is interested in how many of them end up in prosecution and then the result of that. She asked can we get statistics on that. Vierling said many go in and plead guilty and we never see them. He said we can certainly break down on a monthly basis what we are doing case by case if that is what you are looking for. Moegerle said do they plead out, do they go to trial, and just a general quarterly report would be interesting. Vierling said lets see what he can do, because all the pleas go through court admin and he doesn't see that.

Moegerle said the City of East Bethel will be hosting the Anoka County Government Officials meeting on February 29th at Hidden Haven. She said she spoke with Mark Korin and he was interested in having a regional group get together for not only a law enforcement group looking at doing a police department, but also looking at doing some rural lobbying or working together to protect their interests.

Moegerle said she has a whole list of policies that we need to update this next year.

And Happy holidays to everybody.

Council
Member

Voss said he missed the gathering e-mails for residents. Moegerle said yes, gathering e-mails for everybody, communication is one of the problems we have. Voss said so if they fill out

an application, take their e-mail and add it to the e-mail list. Moegerle said no, if a resident calls in with a complaint or suggestion or whatever, we ask for their e-mail so we can add it to the list so we can contact you in case of whatever. It might be a way to communicate better with our residents which is a huge problem. Voss said he throws out caution about collecting e-mail to use for other reasons than what it was gathered for. Davis said of course it would be optional too.

Voss said in the Parks minutes it talked about Coopers Lake/Minard Lake and a resident damming it up, what happened with that. Davis said that might have happened in the past, but it is kind of an urban legend. Nate went out and investigated and didn't see any evidence. Voss said last time we met, you were going to meet with Met Council regarding using the forcemain for Whispering Aspen. Davis said they are taking a new look at cost sharing. He said we felt that was extremely out of line at 53/47. Davis said we are hoping to have a cost sharing proposal as a result of the meeting at 70/30. He said we felt that was reasonable.

Voss asked on Wild Rice Drive will there be a time when we have fewer no parking signs. He said he remembers when it was said they would slowly disappear. Davis asked is there final approval of project. Jochum said there is one item outstanding.

Voss said he knows the newsletter just came out but it would be nice to have the change on the ATV Ordinance out.

Voss said Happy Holidays to everyone.

Council
Member
Report -

Lawrence said the cable telecast is starting late. He said it is starting after consent agenda.

Lawrence said Merry Christmas and Happy New Year.

Adjourn

Boyer made a motion to adjourn at 10:37 PM. Lawrence seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk