

EAST BETHEL CITY COUNCIL MEETING

December 7, 2011

The East Bethel City Council met on December 7, 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
Rita Pierce, Fiscal and Support Services Director

Call to Order **The December 7, 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 7, 2011 City Council Agenda. Voss seconded.** Moegerle asked to add Item 9.0 C Closed Session to discuss GRE Litigation. Boyer said he doesn't object to that. Voss said he is fine with that. **All in favor, motion carries.**

MPCA Closed Landfill Program Lawrence explained that we have a representative from the MPCA to give a presentation on the East Bethel Closed Landfill Program.

Presentation Jean Hanson said she is the land manager of the site and with her is Peter Tiffany and Joe Julik if you have questions at the end. Hanson explained that the Closed Landfill Program (CLP) was enacted in 1994. The CLP has taken over long-term care of 109 of 112 closed, permitted landfills. To Manage the risk we monitor groundwater & methane, we construct remedies. We maintain the site and operate remediation systems and we do land management activities.

Hanson explained the East Bethel Landfill Background. She said East Bethel II PRP Group & MPCA signed the Landfill Cleanup Agreement (LCA) on October 11, 1995 and ownership transferred to the MPCA at that time. The landfill contains an estimated 1,241,900 cubic yards of waste. To date, CLP has spent \$2,001,355 on operation and maintenance costs and \$7,511,112 on construction.

Hanson said this map shows the land management area. What does that mean? It is the land identified in the Landfill Cleanup Agreement (LCA) and properties that potentially had adjacent waste and additional properties that we purchased. It may also include properties with integral equipment for response actions.

Hanson said recently we have generated these GIS Maps to give a visual of groundwater areas of concern to provide to Local Government Units (LGUs). She explained the map which includes site features such as waste footprint, groundwater plume and groundwater areas of concern.

Hanson explained that back in 1998 the Minnesota Department of Health developed a Memorandum for Special Well Construction Area. She said also Joe developed a map that identifies how large of a construction area the special well construction area is for the

landfill. Methane gas is outside the area of concern. The binding agreement states restrictions & covenants in which no construction or alteration and/or groundwater wells cannot be installed on the landfill property without the written approval of the MPCA.

Hanson explained the Landfill Cleanup Agreement Easements as follows. The former owner/operator & adjacent property owner granted easements to MPCA for which we can take responsive actions on property; install structures, equipment, and fences on property and monitor and install groundwater monitoring wells on property.

Hanson said so “What is the Closed Landfill Use Plan?” These are being used to help reduce exposure to hazards to the public using or occupying land at and near closed landfills protects our equipment. As you know your job is to adopt land use controls. She said the Statute we are working under is MN. Stat. 115B.412. There are two particular subdivisions we are working under, subd. 9 (land management plans) and subd. 4 (affected property notice). Both give specific tasks to the MPCA and Local Government Units (LGUs).

Hanson explained that under the Land Management Plans Subd. 9 the MPCA must develop a land use plan for each landfill property and specifically for the property in the landfill. We will designate the use for the landfill property. Specifically, for East Bethel, we have identified two uses for the land and one is to maintain and operate our remediation system that exists on the land. The other is through our partnership, our Memorandum of Understanding (MOU) with the Sandhill Crane Natural Area, to manage that land along with that partnership. So those are the two uses we have identified for the landfill property. The LGU has to adopt and be consistent with those designations. That could be done with a new zoning ordinance for the landfill property. Hanson said when we met with the City Planner, Stephanie Hanson and City Administrator, Jack Davis; we presented a draft that we are calling, Closed Landfill Restricted Zone. She said within that new ordinance would be just the two uses we have identified.

Hanson explained that Subd. 4, breaks down into what the MPCA responsibilities are and the LGUs are. MPCA is providing East Bethel with maps showing ground water contaminant plumes and areas of concern (AOCs) for ground water and methane gas; and narratives (just like you have seen). It is a partnership (even after the zoning is written up) to assist you so we can control the landfill uses and even any subdivision around it. When you receive this information it is to be incorporated into any local land use plans and that includes affected property. With any tools you have, setbacks, overlay districts. We don't dictate how you do that, but we highly encourage you to do that. Especially at the local level. Especially if you recall what the groundwater contamination can look like. Also it is the responsibility of East Bethel to notify anyone wishing to develop in that area of the information we sent to you.

Boyer asked are you the owner of this property? Hanson said yes. Boyer said he understands the issue of outside the property. Hanson said we don't own all the property within the land management area. Boyer asked but you do own the landfill property itself? Hanson said yes. DeRoche asked what is being done to make sure the water is not leaching out and contaminating the other areas? He said from the way you are making this sound, this area could just get bigger and bigger and bigger, correct? Hanson said since we have installed the active gas extractive system, there has been a very large quick clean up of the groundwater contamination at this site. She said it is close to \$7.5 million we have spent at the site. It helps remove the volatile organics within the groundwater as well.

DeRoche asked so he can understand this, the MPCA goes around and shuts down landfills? He asked is that basically what you do? DeRoche asked you take them over and make sure everyone is safe and there is no contamination anywhere? Hanson said we didn't close them down. DeRoche asked you go in after they close down? Hanson said yes, we do. That is part of the statutes, the laws we work under. DeRoche asked what is the time limit on this property, is it never going to be useable again? Hanson said some of them that is a true statement. For East Bethel it will be decades.

Joe Julik said he is the hydrologist with the MPCA on this site. He said in about 2006 was the construction. We found waste that was outside the cover. Julik said we brought all the waste we could find into one pile and covered it with 40 mil plastic and that keeps any water from percolating through and keeps the groundwater from getting any worse. He said we installed the active gas system to pump out the methane and it runs 24/7/365 days a year. It is burning at approximately 1400-1500 degrees. Julik said so that is helping the problem. He said we have a series of eight groundwater pump out systems, that are also pumping 24/7/365 days a year. Julik said what this shows is that during the last seven years the groundwater plume has been shrinking. He said we are drawing it back onto the property. It is not quite all the way back in yet. Julik showed areas on the map and what it has shrunk down to. Julik said between the cover, gas extraction system and pump and treatment system we are doing a good job. He said we are very happy with the results at this site. The reason we have a fairly large area of concern is, if there was unrestricted development in this area of concern. Say the city wanted to go in and put in a well field, pumping three/four wells at 500 gallons per minute; that would go against our remediation. We couldn't fight that. Julik said over the last 20 years, anytime someone proposed to put in a well in that yellow triangle area, the Minnesota Department of Health contacted him, and he worked with the driller. He said there have been wells put in; but they have to have special construction. Julik said that means they have to go deep and they have to case off the upper aquifers, so they aren't drawing any of the impacted groundwater into those wells. He said that is the main reason we have such a large area. Julik said the short answer to your question is; "We are doing a number of things and spending a significant number of resources to keep the problem on the site." He said in terms of how long that will take to get that 1.2 million cubic yards of waste benign, it is a really long time. Julik said we are not going away from this site. We do have sites that are small under a 100,000 cubic yards, where we dig them up and put in a state of art facility.

DeRoche asked what makes this different than any other landfill? Is this common with other landfills? Julik said this is very common with other landfills that MPCA permitted in the late 60s and early 70s. Julik said they were built to get rid of 1,500 dump sites in the state. He said they permitted about 100 landfills to get rid of vermin, rats and litter and fires. Julik said and they did that, but they weren't lined. He said one of the driving forces for this legislation which was passed between 1992 and 1994 was society in general created this problem by building unlined landfills. Julik said every landfill in the state now is on a liner. He said these 109 landfills we have in our program were built without liners.

DeRoche asked so what is the potential of this area getting bigger? He said so what you are telling me is that the MPCA back in the 70's authorized this landfill and for all the trash from the cities to come up and be dumped, is that correct? Julik said that is correct. DeRoche asked what is the liability to the city for this? He said what he is looking at is here is this great big piece of property the city can't do anything with. I can't develop it, and basically it is just being controlled. DeRoche said and that is why he wants to know if at any point will we be able to use it for anything or it is pretty much just written off? Julik

said the practical remediation is what we are doing. He said as far as putting it back to taxable use, not for a long, long time. Voss said the way this one is constructed; he doesn't think there is any foreseeable use for it. He said a lot of times, and we are involved in quite a few that are turned into soccer fields or football fields because they are constructed differently. Voss said but this one is certainly constructed differently, is a mound.

Moegerle asked the soil is not toxic right? Because that was fresh soil that was put over the liner? Julik said that is right, anything above the liner is clean. Moegerle asked could that ever be opened for a sledding hill? She said the view from up there is beautiful. Moegerle asked is there no way to logistically handle that? Julik said he doesn't see that. He said along with our responsibility there is a lot of liability. Julik said essentially this is very common with sites of this size and nature where there is an active gas extraction system. Every acre or so has a gas wellhead coming out of it. He said we would have the potential of a gas well head being damaged, vandalized, run into by a sled; we would have all those issues there.

Lawrence asked it says you are checking at 15-25 feet, 30-40 feet and 50-60 feet, are these all the same aquifers? Julik said no, they are all the drift aquifers; they are all above the bedrock. He said if you go down to the bedrock it is clean. Julik said so the contamination at this site hasn't gotten below the third aquifer. He said the ones below it are clean and we advise if you have a well in this area that you go deep and double case, but it is more expensive. Julik said if someone's well is impacted, we will drill them a new well or put in a GAC, (galvanized activated carbon) filter and we will install and maintain them. He said but if someone comes in and puts in a new well, we will tell them how to put in a safe well, but to date don't think we will pay the additional expense.

DeRoche asked what would happen with sewer and water if it went in that area? Julik said that would be fine. Lawrence asked on the site of the waste, the only proper way to clean that up would be to move the toxic ground soil, right? Julik said right. He said when this program was initiated we looked at the cost of removing these and putting them on liners or incinerating them and then instead of tens of millions, we were talking billions of dollars to deal with all these old sites. Julik said it was mind boggling what it would cost to go in there and move it out. Lawrence asked what is the life of liner you have over the top right now? Peter Tiffany said he is the engineer with the MPCA. He said these liners are considered to never degrade. Tiffany said he seen studies to try to degrade them and they are supposedly good for 998 years. He said really probably the biggest problem would be settlement and that might put some stress on it and might tear it. Tiffany said hopefully with the design it would not tear it, but we monitor it. He said if it did, we could go in and dig it out and patch the liner. Moegerle asked Julik when we took that tour; you told us how quickly that mound is collapsing per year, what are the settlement rates? Tiffany said initially we did consolidate some of the waste and we dug up the off landfill site footprint waste and put it on there. He said so it was not as compacted and we did see some settlement. Tiffany said the soil has pulled down and it has pulled the boot down, but that is not going to continue at that rate at all, it is probably just about finished with any significant settling. He said what it will look like is that the well heads are growing, and every once in a while you just have to cut them off and put the well head back on.

2012 Budget Hearing

Davis explained that Minnesota Statute 275.065 requires cities to conduct a hearing whereat residents are offered the opportunity to provide input to City Council on proposed budgets and tax levies. The State requires that each City announce the date, time and place of the meeting whereat residents can provide City Council feedback on proposed budgets and tax

levies. The date selected must be done at the meeting when the City Council adopts the preliminary budget and levy in September. This meeting date is also listed on the parcel-specific notices for proposed 2012 taxes that the taxpayers received in November from Anoka County.

Council directed that December 7, 2011 as the regular meeting for this opportunity. City Council has afforded a number of occasions during the budget development process to residents for this input.

For those interested, the 2012 Preliminary Budget has been available on the City's website and a paper copy has been at the city hall receptionist area since its adoption in September 2011.

Later on this agenda, Council will have the opportunity to consider tax levies and budgets for 2012.

Staff is recommending that Council consider input from residents on the 2012 tax levies and 2012 budgets.

There were no public comments.

Boyer made a motion to close the public hearing. Moegerle seconded; 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 motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, November 16, 2011, Regular Meeting; C) Meeting Minutes, October 27, 2011, Work Meeting; D) Meeting Minutes, November 22, 2011, City Council Special Meeting; E) 2012 GIS Contract; F) Appoint New Fire Fighters; G) Fire Officers Appointments; H) Anoka County – Blaine Airport Advisory Commission; Resolution 2011-59 Supporting St. Croix Minimal Impact Design Standards. Moegerle said she has her normal punctuation and grammar changes to the minutes. Voss seconded; all in favor, motion carries.**

Joint Powers Agreement between Anoka County and City of East Bethel for Signalization Project at Hwy. 65 and 221st Ave. NE Davis explained that The Anoka County Highway Department (ACHD) presented a proposed Joint Powers Agreement (JPA) for the 221st Ave. /Hwy 65 Signalization Project to City Council on November 16, 2011. Council expressed concerns with several of the conditions of the agreement and tabled the matter for future consideration. City staff met with representatives of the ACHD on November 22, 2011 to address the issues as presented in the City Attorney's comments regarding the JPA. The resolution and explanation of these items is as follows:

Purpose and Understanding. The ACHD presented the modified layout of the intersection design to Council. The JPA as presented for consideration, if approved, would be the final design suitable for final construction documents as shown in Exhibit A. Council would be approving the final design (Exhibit A) with approval of the JPA. Exhibit A is the modified design that minimizes the right of way and easement acquisition and reduces the size of the retention pond on the Phyllis Kable property.

Right of Way. The City has no existing plans for improvements beyond the limits of the proposed project as shown in Exhibit A and, therefore, all the right of way acquisition will be the responsibility of the County for the project.

Traffic Signals. The City's share of the cost will be 25% of cost for the CR 74 legs with the costs being those that aren't covered by the grant. It is anticipated that City's portion of the cost will be \$5,675 for the signal portion and \$250 for EVP construction. Final costs will not be known until the bids are received for this project.

Drainage. The City share of this portion of the project is anticipated to be \$2,250. This cost is based on the estimated contributing flow attributable to the City that is outside the County right of way.

Traffic Control. Previous JPA's for signalization projects did not include this item since no County road improvements were required. This project will require extensive work on CR 74 and it is current County policy to cost share this part of the project with the City. It is anticipated that the City share of this cost would be \$348.

Driveways and Landscaping/Streetscaping. There are no planned upgrades for driveways, landscaping or streetscaping on the City's part. Therefore, there will no additional expense to the City for these items of the project.

Utilities. Design and construction costs of the force main that will cross this intersection will be the responsibility of MCES. Bolton & Menk, engineers for this portion of the MCES project have been made aware of this condition of the JPA. There will be no City utilities at this intersection during the time of construction.

Permits. The City has provided the ACHD a copy of our Right of Way Ordinance. As is currently planned, there will be no construction of any portion of this project on City right of way.

Signalization Power. The City has been responsible for providing a source of power for the connection and operation of street lights and signals for all three previous traffic light projects on Hwy. 65 in East Bethel. The MnDOT agreement referenced in item IX is summarized in an attachment, MnDOT Signal Work Description. This is a standard County policy and consistent with previous signalization projects in the City.

Maintenance. Maintenance of the storm sewer (except catch basins and catch basin leads) and detention basins shall be the responsibility of the City. This is standard County policy and the ACHD will not deviate from this practice. This provision was not in previous JPA's for Sims Road and Coopers Corner because there were no ponds or storm sewers required in these projects.

Maintenance of the street lights and the cost of electrical power for these lights shall be the responsibility of the City. This item is contained in all prior JPA's for City traffic signal projects.

Signal maintenance will be as outlined in the attached MnDOT Signal Work Description. This description is consistent with City responsibilities for Viking Blvd., Sims Road and Coopers Corner intersections.

Project Costs

Construction costs presented in the JPA are best estimates at this time. Final participation of each party will be based on the actual construction bid. The estimated construction cost of the total project is \$999,158.87. Federal funds available for the Project are capped at \$1,100,000. The federal funds will be split based on the ratio of eligible costs incurred by each party to the total eligible project cost. In general the federal funds will pay 90 percent of the City's construction costs.

Prior to the application of federal funds, the total estimated construction cost to the City is \$116,172.29. After the federal funding percentage is applied, the cost to the City for their share of the construction items \$11,612.09.

The City participation in construction engineering will be at a rate of eight percent (8%) of their designated construction share of \$116,172.29. The estimated cost to the City for construction engineering is \$9,293.78.

In summary, the total City share of this project for the construction items and construction engineering is \$20,905.87.

In addition to the above referenced costs the City would be responsible for costs related to the EVP system and power supply to the signal. These costs are estimated to be approximately \$6,000. It also has not been determined if MnDOT will participate in the cost of the signal. If MnDOT does not participate in the signal it is estimated that the City's cost share would increase \$11,243. In conclusion the maximum City contribution for this project is \$38,148.86.

The JPA for this project differs from previous projects due to the fact that no County road improvements were required for the signalization of intersections at Viking Boulevard, Sims Road and Coopers Corner. In addition the last JPA the City executed with the County for a signalization project was in 1998 and since that time there have been significant changes in County and MnDOT policies in regards to project cost sharing. The Cities of Ham Lake and Blaine have recently signed JPA's that require the same conditions as those the County is requesting for our project.

Final costs will be dependent on project bids which are anticipated to be awarded by mid-August 2012.

Staff recommends Council consider approving the Joint Powers Agreement between the City of East Bethel and Anoka County with the understanding that MnDOT costs will be assigned consistent with current MnDOT Cost Share Policy.

Boyer made a motion to approve the Joint Powers Agreement between the City of East Bethel and Anoka County for the Signalization Project at 221st and Highway 65 with the understanding that MnDOT costs will be assigned consistent with the current MnDOT Cost Share Policy. Voss seconded. Boyer said he wants to do this so that possibly no more East Bethel residents die there. DeRoche asked dealing with utilities, (granted at this time there won't be any utilities up there), but will Bolton and Menk and MCES going to have to take care of that when it does come time? Davis said the force main that goes to the rapid infiltration at 229th across this intersection and it will be the

responsibility of Bolton and Menk and MCES to work with Anoka County to get the necessary permits and comply with the design standards for the installation of that line. He said it won't be any of the city's responsibility.

DeRoche asked about the maintenance and streetlights, "Why is the city paying for this?" Davis said that is standard policy. We pay for the electrical service for all three streetlight at all three traffic intersections now and for the maintenance of all the lights. He said that is just the way these things have been structured. Davis said we do it at Viking Blvd, Sims Road, Cooper's Corner and that is just part of the cost sharing of these agreements. Boyer said being the maker of the motion, he can highly see the absurdity of this, especially since it is a county road, he highly agrees with you on this. He said especially since the county collects funds from the State of Minnesota to maintain this. DeRoche said it seems like more and more of the costs are being put off on the city and it seems like we are giving them a blank check here. He said because all these costs are if this happens or if that happens, "Well if MnDOT does this or if they don't then it will be an extra \$11,000 or \$12,000." DeRoche said he doesn't like the fact that the city has to pay for the signal light. He said number one, we have no idea what it is going to cost. DeRoche said and if the light gets run over, the city has to pay to replace it. He said this is one of those projects, (it is kind of like a trail), you have to pay to build it, buy equipment to maintain it, hire someone to fix it, and the costs are going to just keep adding on. DeRoche said it is kind of an open ended deal from what he sees.

Davis said costs are pretty well capped at \$38,000. He said the determining factor on the costs will be the bids on the project. Davis said we won't know those until July. He said if we wait until July to do this, that means the project won't be installed until perhaps 2014. Davis said the reason to approve this now is to accelerate the project and to take advantage of the savings that will be afforded the project because of traffic light. He said this is being recommended by staff. Davis said this is based on standard MnDOT policies which will be in effect whether we approve it now or in August.

Boyer asked Jochum, "Is there anything unusual about this agreement?" Jochum said not from the ones in the past. He said just to clarify (page 121) the city is only responsible for the minor maintenance of the streetlights. Davis said we don't have any responsibility for maintenance of the signals, just for the streetlights at that intersection. He said the signal maintenance is performed by Anoka County. Voss asked it is a streetlight like any other streetlight we have in the city? Jochum said correct, except it is on the signal. Voss said that is the only difference and we maintain our streetlights now.

DeRoche asked where it says this item is contained in all JPAs, is that just for East Bethel or is that what they do with all cities. Davis explained that is essentially what they do with all the cities. It is contained in all three of the JPAs we have signed for all three previous signal projects. He said we provide the electrical service for the streetlights and traffic signal and we provide the maintenance for the streetlights. Davis said that is pretty standard policy. He said he completely understands your position. It is a county and/or state road and we are required to pay some maintenance on it. Davis said unfortunately, that is the price for being able to get some grant money. He said sharing some cost around. Davis said the first one we did was on Viking Blvd. in 1984.

Moegerle asked you use the acronym "EVP", what does that stand for? Davis said Emergency Vehicle Preemption. He said that is the little light on the overhead arm that flashes to allow emergency vehicles to pass. Moegerle asked the city attorney if he has any

concerns with the JPA? Vierling said he corresponded with the city and Davis is correct that we do see MnDOT and the county looking for greater cost participation from the cities. He said he doesn't see that being changed at all. Vierling said from that perspective, it is just more of the same.

Moegerle asked do we need to purchase any easements for this? Davis said no, the county will handle all the easements. He said all of the project will be built in the county right-of-way. DeRoche said it says here "If MnDOT does not participate, it is anticipated city portion will increase \$11,243." He asked has MnDOT expressed that they will not be participating? Davis said this is only for the grant share portion of it, the 10% of it. He said we haven't received word, nor has the county received word what MnDOT's participation is going to be. Davis said that is the only really open-ended thing on this, "Aare we going to have to pay \$0 or \$11,000?" DeRoche said so if MnDOT doesn't participate, is that the handling charge? Jochum said their argument is they have done the signal design, and they consider the grant their money.

Moegerle asked so if we were to amend the motion to limit at \$38,200, would that assist in limiting any changes they might make that would make our responsibility greater? Davis said he would caution everyone that the final cost will not be known until bids are taken in July. He said and as far as the JPA, we do have the option of getting out of it with 30 days notice. Davis said we would be liable for any of our costs. Davis said bids have been running at fairly good prices. He said will they be that way in July, he cannot assure that. Moegerle said if it is open-ended it can be anything. She said but if we have a not to exceed "number" it will limit this. DeRoche asked will they come back to us or will they just shut it down? Davis said he thinks they will come back to us and see if we want to continue it. Moegerle asked if we didn't have a not to exceed number would we be helpless?

DeRoche asked who put the numbers together, how are they figuring this out? Davis said he is sure they are basing this on what they have recently bid and what they have historically had for bids. Boyer said he would gladly put in \$38,000, but would do so at your request, but frankly we have lost so many residents at this intersection that quibbling over a small amount of money seems. Moegerle said she requests we put a \$38,000 cap on this. **Boyer said he will amend his motion to add a cap of \$38,000. Voss agreed to that amendment to his second.**

Voss said in terms of comments by the city attorney of what the state and county have been doing. He said one of the pushbacks on the part of the municipalities has been the maintenance of the ponds. Voss said part of that has been because this doesn't happen for 10 to 20 years after it is built. He said cities are really getting sticker shock now of what it costs. It might be \$25,000 to \$30,000 to clean the pond up. Voss said he finds it interesting that there is a calculation in this agreement about contribution of flow to the pond. Don't want to hold up the JPA, but would seem to him there should be a cost sharing on cleaning of the pond. Davis said this is the item we argued with them most strongly. He said we suggested they put up some kind of bond that would cover the initial costs. Davis said they said it was county policy, you got the ponds. He said we checked with Ham Lake and Blaine and they had to sign the same agreement to get the money. Voss said he understands, but some municipalities have done push back. Vierling said the only place he has seen this work is where the cities have leverage is where MnDOT or the county wants the project and the city is ambivalent. He said unfortunately this is not that type of project. Vierling said it is an extraction, that they are using and it is not fair. But it is a way for them to shift future liability and costs and that is quite frankly what they are doing. Voss said it was more of a

comment than anything else. **All in favor, motion carries.** Lawrence said he wants to comment on the accidents we had up there this year. He said the one was fatal; don't know if the other was. Hopefully this will solve some issues for those.

Pay Est. #7,
Phase 1,
Project 1,
Utilities

Jochum explained that Council has been provided with a copy of Pay Estimate #7 to S.R. Weidema for the construction of the Phase 1, Project 1 Utility Improvements. The major pay items for this pay request include sanitary sewer construction at the north end of the theater and across 187th Avenue, street construction on Ulysses Street north of 187th Avenue, clearing and grubbing and constructing an access road in the wetland area adjacent to TH 65 and other miscellaneous items. Two separate payments will be made. One payment will be to S.R. Weidema and the other will be to the escrow account established at TCF Bank. We recommend partial payment of \$626,942.98. A summary of the recommended payment breakdown is as follows:

Contractor Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$3,008,047.89	\$2,529,249.05	\$478,798.84
City	\$2,102,725.52	\$1,985,928.53	\$116,796.99
Total	\$5,110,773.41	\$4,515,177.58	\$595,595.83
Escrow Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$158,318.31	\$133,118.37	\$25,199.94
City	\$110,669.76	\$104,522.55	\$6,147.21
Total	\$268,988.07	\$237,640.92	\$31,347.15

Staff recommends Council consider approval of Pay Estimate #7 in the amount of \$595,595.83 to S.R. Weidema and \$31,347.15 to the TCF Bank escrow account for the Phase 1, Project 1 Utility Improvements.

Boyer made a motion to approve Pay Estimate #7 to in the amount of \$595,595.83 to S.R. Weidema and \$31,347.15 to the TCF Bank escrow for the Phase 1, Project 1, Utility Improvements for a total of \$626,942.98. Lawrence seconded; all in favor, motion carries.

Construction
Administra-
tion Costs for
Phase 1,
Project 1,
Utility Project

Jochum explained that the City has an agreement with Bolton & Menk for construction administration services for the Phase 1 Project 1 Utility Project. Although the agreement specified the not-to-exceed costs, it did not specify the cost split between the City and Metropolitan Council Environmental Services (MCES). The cost split is proposed to follow the construction cost split of 61% MCES and 39% City. MCES has approved this cost split. The City is also responsible for 39% of the material testing services performed by Braun Intertec. Staff has reviewed the current outstanding invoices from Bolton & Menk and Braun Intertec. The invoices include work performed from March through October 14, 2011. The cost split totals based on the 61% / 39% split are as follows:

<u>Company</u>	<u>City Share</u>	<u>MCES Share</u>
Bolton & Menk	\$194,609.24	\$304,388.80
Braun Intertec	\$ 5,668.55	\$ 8,866.20
Total	\$200,277.79	\$313,255.00

These costs will be paid by the bond proceeds from the Phase 1 Project 1 Utility Project.

Staff recommends that Council consider approving the outstanding invoices for construction services to Bolton & Menk in the amount of \$498,998.04 and Braun Intertec in the amount of \$14,534.75. Upon approval of these payments staff will submit a reimbursement request to MCES in the amount of \$313,255.

Moegerle made a motion to table this whole issue until we resolve the issue with Met Council to extend the pipelines to Castle Tower. DeRoche seconded. Voss asked what does that have to do with this. Boyer said he doesn't see the connection either. Moegerle said it will give us some leverage to get Met Council to the table. Voss asked do we not have an agreement with Met Council on this? Moegerle said not to go up to Castle Tower. She said we have been trying to get this extended up to Castle Tower so we don't have to replace the system up there. Moegerle said negotiations have not been going well. Boyer said be careful when you say "we". Davis said he would ask that you reconsider this and give us the opportunity to continue working with Met Council on this. Jochum and I are trying to set up another meeting with Pickart which we hope to have done Monday. Moegerle said if we table this for two weeks, would that not create an incentive to get him to the table in a more amelioratory approach. Boyer said it might have the opposite affect, quite frankly.

Jochum said actually according to the agreement, the city has to pay Bolton and Menk and then get reimbursed. So, the longer we wait, the longer they can wait to pay us back. Voss asked don't we have a contract with terms and terms of payment? Vierling said yes, the contract does have time deadlines that are specified within it that, upon the certification of the engineer the payments are due. He said he is not sure how close we are in terms of where that certification came in. Vierling said ultimately there is a day clock running on this payment and there are penalties for non-payment and terms for interest. Voss asked if he knows what the penalties are? Vierling said he does not know them off-hand. Moegerle asked and we don't know when these are due? Jochum said he would say these are overdue. We did not pay them because there was not a cost split in place. He said Bolton and Menk has been working on a cost split for quite some time. Moegerle said on that basis that your representation that it is overdue, she will withdraw her motion. She said she has suffered from bad facts lately. Jochum said he is pretty sure the agreement says within 30 days. DeRoche asked what this is about there not being a cost sharing agreement in place and now there is? Jochum said there was a "not to exceed."

Boyer made a motion to pay the outstanding invoices for construction services to Bolton and Menk in the amount of \$598,998.04 and Braun Intertec in the amount of \$14,534.75. Upon approval of these payments staff will submit a reimbursement request to MCES in the amount of \$313,255.00. Lawrence seconded; all in favor, motion carries.

Lawrence asked how the project is coming along? Jochum said we are past jacking on the pond, and into open cut. He said they have done some more testing, digging and such. Jochum said it sounds like the piling will be cut down from 1200 linear feet to about 500 linear feet. He said this is good news. That was an expensive portion of project. Jochum said now they will proceed north, starting open cut again and heading north. Lawrence asked are we beyond the bank now? Jochum said yes. Boyer asked have we reached the mid-point of water tower, are we at the maximum diameter? Jochum said we are close.

Final Budgets budget was adopted on September 7, 2011.

for General

Fund, Debt

Service Funds,

Special

Revenue

Funds, Capital

Project Funds

and

Proprietary

Funds for

2012

The following items represent increases and decreases to the 2012 Preliminary General Fund Budget due to additional information received after the Preliminary Budget was adopted. These changes reduce the 2012 General Fund budget by \$700.

Finance Department

301-Auditing & Accounting Services

Approved: \$25,000

Proposed: \$20,000

Decrease: \$ 5,000

Decrease \$5,000 due to change in accounting firms to provide Auditing services

Fire Department

103-Part-Time Employees

Approved: \$108,223

Proposed: \$106,133

Decrease: \$ 2,090

Decrease \$2,090 to reflect reduction in pay to paid-on-call firefighters

125-FICA/Medicare

Approved: \$14,778

Proposed: \$14,618

Decrease: \$ 160

Decrease \$160 to reflect reduction in pay to paid-on-call firefighters

231-Small Tools & Minor Equipment

Approved: \$7,275

Proposed: \$6,525

Decrease: \$ 750

Decrease \$750 by reducing purchases of minor equipment

309-Information Systems

Approved: \$1,500

Proposed: \$ 0

Decrease: \$1,500

Decrease \$1,500 by delaying purchase of Fire Inspector computer

434-Conferences/Meetings

Approved: \$1,500

Proposed: \$1,000

Increase: \$ 500

Decrease \$500 to account for reduced conference expenses

Building Inspection Department

141-Unemployment Benefits

Approved: \$0

Proposed: \$12,250

Increase: \$12,250

Increase \$12,250 to account for unemployment compensation for support staff position eliminated in 2011.

434-Conferences/Meetings

Approved: \$1,300
Proposed: \$4,800
Increase: \$3,500

Increase \$3,500 to reflect the education required for sewage treatment systems

Park Department

103-Part-Time Employees

Approved: \$18,000
Proposed: \$12,000
Decrease: \$ 6,000

Decrease \$6,000 to eliminate 1 seasonal part time helper during the summer season.

125-FICA/Medicare

Approved: \$22,141
Proposed: \$21,691
Decrease: \$ 450

Decrease \$450 to eliminate 1 seasonal part time helper during the summer season.

These changes to the 2011 Preliminary General Fund budget total \$700 resulting in a decrease in expenditures of \$170,667 over the 2011 final budget.

Budgets for Special Revenue Funds, Capital Project Funds, Enterprise Funds and Internal Service Funds were presented and also discussed by Council at meetings in July, August and September.

Projected expenditures for 2012 are below 2011 adopted levels by 3.44%. The budget resolution presented reflects direction from Council from the budget discussions and the changes identified above.

With the changes noted above, the City tax levy for General Fund activities would decrease 10.5% from pay 2011 to pay 2012 reflecting reduced operating expenses.

These budgets establish the City's legal level of spending within the respective funds.

Staff seeks direction on budget reductions and approval of Resolution 2011-60 setting the final budgets for 2012.

DeRoche asked in the building department, what is the \$3,500 increase for? Davis said for building official ISTS Certification. DeRoche asked why is the city paying for that? Davis said there is a precedent for the city to pay for certification. He said the last one that was done was the sewer operator. Moegerle asked but wasn't that done upon him passing the certification. Davis said that is correct. He said that is what this would be. Davis said the money would be there, the individual would take the class and passing the examination he could apply for the reimbursement for that. DeRoche said the building official job; part of the job description was to have this certification. He said and now we are going to pay for him to get this certification as kind of an afterthought. DeRoche said he has a problem with that. Voss asked was it not a requirement to get the certification? Davis said yes it was. He said and it was relayed to him, by the building official, that the year he was supposed to get his certification, the city cut all funding for training. He said so that was one reason he did

not obtain the certification. Davis said there are five classes in all and the cost is around \$1,400 – \$1,500 for tuition. Boyer said but this is not his building inspector certification. Davis said no, this is for the septic certification. He said the building official does have all his certifications for his building official license. Davis said the problem with these classes is there is only one that can be considered within a driveable distance the rest are scattered all over the state, Rochester, etc. Could be less depending on what the accommodation costs are.

DeRoche asked so you said the classes were \$1400, but now we are at \$3,500, what is the extra for? Davis said for lodging, transportation and meals for the individual. DeRoche said he has a real problem with that. Moegerle said she agrees. It is a problem. DeRoche said and it is nothing personal. He said any jobs he has had in the past that had certain criteria you had to meet, he has paid for the classes. DeRoche said and even at that, he paid to drive, he paid pretty much for everything. He asked where are the classes that he has to go lodge somewhere for? Davis said there is one in St. Cloud, but rest are well over a 100 miles. Moegerle said she commuted to Rochester for the LMC class, it was not easy, but it was doable. She said when she worked for the law firm; they paid for continuing education, but not for lodging and mileage. DeRoche said we put out \$3,500 for training and who knows what will happen. He can decide to go somewhere else.

DeRoche said it is not even like the fire fighters. It is a completely different job. They are training, they are saving peoples lives. They are pretty much going to stay here. DeRoche said we are paying for this certification. Voss said in terms of any other staff; in terms of training, is mileage and lodging paid for is that generally covered. Davis said the only other one he has had experience with is our sewer operator, he was reimbursed for mileage and meals. He said he is not sure if there was any lodging involved. Davis said he thinks there was one where he had to go and stay and take the test; an outstate class. Voss asked does any of the other staff go to conferences and training. Davis said the only ones we go to are in a day and we return in a day. Voss asked and these are not doable. Davis said these are three days of classes. Lawrence said this is not like an update; this is relatively a new certification that came out. He said so when he was hired, this certification was being required at that time. So that is why the city offered him that education. DeRoche said he wasn't aware that the city offered him that education; he thought that was part of the conditions.

Davis said it was a condition of his employment, however, what arrangements were made to reimburse him for that training or other accommodations he has no knowledge of and we have no record of. He said all he is basing this item here is on we have paid for this training for people in the past and we do have a precedent set for that, and that is the only reason we put this in the budget. Moegerle said of course this is contingent on his turning this in and if he passes the class. DeRoche said he just plain and simply has a problem with something that is required for job; you come in and don't get it. He said it seems it would behoove me to get it to keep my job. Voss said it seems we are going back to the issue that this should have been done a long time ago. He said so he doesn't know if we would have been having this argument in 2007 when it was supposed to have been done, or whenever it was. Voss said what he remembers from discussions before is, "It was expected to get it done within that year" He said because, as Lawrence said, it was fairly new at that time. So he may not have had it at the time, but there was an expectation to get it. Davis said Martin was given a directive to complete this within the classes scheduled. He said so based on Council's direction he thinks in September he would have to complete this in June 2012. DeRoche said Council asked the fire department to cut, police department to cut, asked everyone else

to cut. And we want to give the building department \$3,500 to get his certification? Voss asked didn't you just cut his salary by 20%? DeRoche said the alternative to that was we could have just let everyone go. Voss said you are making it sound like there weren't any cuts to the building department. DeRoche said no, there were some. He said that was a cut straight across and we let a support staff go. Voss said we are requiring him to have this training. DeRoche said we already have one with training. Voss said we have a building inspector.

Lawrence made a motion to adopt Resolution 2011-60 Approving Final Budgets for General Fund, Debt Service Funds, Special Revenue Funds, Capital Project Funds and Proprietary Funds for 2012. Voss seconded. Boyer and DeRoche, nay; Lawrence, Moegerle and Voss; aye; motion carries.

Resolution
2011-61
Setting the
Final Property
Tax Levies for
2012

Davis explained that Council, through discussions at several City Council meetings throughout the summer has determined that a property tax levy for 2012 be set such that funds are available to accomplish the goals and objectives Council has identified. To make provisions for these goals and objectives, a General Fund levy of \$4,191,470 is necessary.

To service existing debt, a tax capacity based debt levy of \$158,000 is necessary to make principal and interest payments on the 2008 Sewer Revenue Bonds. Further, a market value based levy of \$147,328 is necessary for principal and interest on the 2005 Public Safety Bonds that were issued for the Fire Station and Weather Warning Sirens projects.

When the debt service levy of \$305,328 is added to the General Fund levy of \$4,191,470, the total levy amount proposed is \$4,496,798. This represents an 8.89 percent decrease from the 2011 total levy amount.

Resolution 2011-61 provides for the property tax levy required for the current spending proposed for the General Fund and the debt service requirements of the 2008 Sewer Revenue Bonds and the 2005 Public Safety Bonds.

Staff recommends approval of Resolution 2011-61 setting the final property tax levy for 2012 and direction this resolution be forwarded to the Anoka County Auditor.

Moegerle made a motion to adopt Resolution 2011-61 Setting the Final Property Tax Levy for 2012 and direction to forward the resolution to the Anoka County Auditor. Voss seconded. Boyer, nay; DeRoche, Lawrence, Moegerle and Voss, aye; motion carries.

Resolution
2011-62
Setting the
Final EDA
Levy and
Budget 2012

Davis explained that the East Bethel City Council passed enabling Resolution No. 2008-83 establishing the East Bethel Economic Development Authority (EBEDA) on July 16, 2008. Resolution No. 2011-27 amending Resolution No. 2008-83 was approved on August 17, 2011 and limited the powers of the EBEDA to levy a tax within the City of East Bethel.

City Council has directed the EBEDA to become an active board to address economic planning, marketing and improve the economic vitality within the City. In order to accomplish these goals the EBEDA requires financial resources.

The EBEDA is a special taxing district and the City of East Bethel is authorized by Minnesota Statute 469.107 to levy a tax in any year for the benefit of the authority. The tax must not be more than 0.01813 percent of the taxable market value.

The maximum levy allowed for pay 2012 taxes is \$163,428 (East Bethel Market Value of \$901,424,900 X 0.0183%). The resolution presented for your approval provides for the maximum tax levy for pay 2012.

The final tax levy must be submitted to Anoka County by December 28, 2011.

Staff recommends adoption of Resolution 2011-62 approving the final EBEDA property tax levy and proposed budget for 2012 at \$163,428. Further, that a copy of the approved resolution be transmitted to the County on or before December 28, 2011.

Moegerle made a motion to adopt Resolution 2011-62 Approving the Final EBEDA Property Tax Levy and Proposed Budget for 2012 and direction to submit the resolution to Anoka County. DeRoche seconded.

Voss asked on page 148 it talks about professional service fees of \$25,000 is this for marketing and branding? He asked from the proposals we got, those weren't cost proposals correct? Davis said those weren't. Those will have to be negotiated. Voss asked are those the approximate costs? Davis said yes. He said those are based on the level of service they proposed. Davis said depending on the level of service, we might have to do a line item amendment. Voss asked would the budget be more than this? Davis said no, the total would remain the same; it would be a line item amendment. Voss asked and there is \$50,000 for a city sign. Davis said that was a item that the EDA discussed at an October meeting, to see if it is feasible to install a reader board. Voss asked this is building a fund for a city sign. Davis said that is correct. He said if it is not started this year, it could be used the next year. Davis said the last time we looked at it, was \$65,000. Voss said because it would be far more than this. He thinks Ham Lake paid well over a \$100,000. He said so \$25,000 is for consultant fees. Davis said we do have a contingency item in there that would make up the difference if we needed to. **Boyer, nay; DeRoche, Lawrence, Moegerle and Voss, aye; motion carries.**

2012 Proposed Fee Schedule Staff has reviewed the 2011 fee schedule and proposes the following changes for 2012:

The following Utility Operations 2012 Fee Schedule Charges are proposed:

Current: \$10,205 Proposed: \$6,000

Decrease Sewer System Access Charge – Whispering Aspen to reflect prior agreements restricting this charge to \$6,000 per connection for the Whispering Aspen Development.

Current: No Charge Proposed: \$3,600

Water System Access Charge – Non Whispering Aspen setting the charge for connections made to Phase 1 Project 1 of the new Infrastructure Project. Fee developed by engineers during feasibility phase of project.

Current: No Charge Proposed: \$2,000

Sewer System Access Charge – Non Whispering Aspen setting the charge for connections made to Phase 1 Project 1 of the new Infrastructure Project. Fee developed by engineers during feasibility phase of project.

The following General Charges 2012 Fee Schedule Charges are proposed:

Current: \$500 Proposed: \$500

Resolution 2011-08 modified the 2011 fee schedule to establish this new fee.

No fee increase for Peddler License. Change to Peddler/Solicitor License which was not correctly listed on the 2011 fee schedule.

The following Building Fee Schedule change is proposed:

Electrical Inspections Fee Schedule

Resolution 2011-26 modified the 2011 fee schedule to establish these new fees.

The following Fire Department 2011 Fee Schedule Change is proposed:

Current: \$70

Proposed: \$70

No change in fee. Language in fee schedule needs revision to include all unpaid fire charges. Tax Certification of Unpaid False Alarms Fire should be changed to Tax Certification of Unpaid Fire Charges.

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. The final Fee Schedule will be provided for consideration on December 21, 2011.

DeRoche asked on these fees, such as alcohol and cigarettes, we are considerably higher (than neighboring cities) and he is wondering how that came about? Davis said that is the fee schedule that was established previously and the reasoning for that? He doesn't have an explanation. DeRoche gave some examples of the fees for liquor licenses. He asked if there was a reason for it, maybe to generate more funds? Moegerle said she supposes because liquor establishments were not favored. Lawrence said after reviewing that he would like to see cigarette fee lowered. It is way out of line. Boyer said there are enforcement costs. He said we have had a number of hearings. Boyer said generally when the city is prosecuting misdemeanors of that sort; it does not make money on these things. He said it usually ends up costing the money to prosecute these people. Vierling said in fairness you don't make money on any one of those. He said it is a question of how far do you want to go in subsidizing this. Lawrence said he has changes he would like to put forth on these.

Lawrence said he would like to see the cigarette fee at \$100. Boyer said he would like to suggest we put them at writing to consider at the next meeting. Lawrence said he would like to see a comparison on transient merchant, peddler and vehicle dealer's license fees with other cities. Moegerle said she thinks the pawn broker fees are high too. DeRoche said he would suggest we e-mail our changes we would like to see to the city administrator. Voss said it is worthwhile. It has been a long time since we changed the liquor license fees, but he remembers when we did that, we went through the whole looking at other communities and they changed their fees as well. He said but we should also know the effect it is going to have on the general fund.

Fire
Department
Reports

Davis explained that the November Fire Calls and October Fire Inspector Reports are included for your review. DeRoche said there are a lot of medicals. Davis said the medicals account for about 70% of the calls. DeRoche said it is good to see this in the packet. Davis said we will have the fire chief at the next meeting, with the end of the year report. Moegerle asked about the new fire fighters. Davis said eight applied, two dropped out. He said three passed all the tests. Three still have to take the haz mats. Davis said we have approved three and have three pending. DeRoche said last year the fire chief brought them

in and introduced them. Davis said think he is waiting to bring them in all at the same time. Voss asked how many will that bring us up to? Davis said 36. Voss asked were we not set at 35? Davis said we have four that retirement is pending on. He said so the eight will get us to that total. Voss said so we will be below 35. Davis said that is correct.

Approve
Quote from
Dascom for
City Council
Chambers AV
Upgrade and
Cablecast
System

Davis explained that the control panel in the AV system has not operated correctly since February of 2011. Staff requested quotes for repair and upgrade of the system. We received two quotes and one bidder was non-responsive.

Dascom Systems Group was the low bid at \$19,896.00. They have installed systems for the cities of Burnsville, Inver Grove Heights, Ostego, Prior Lake and Albertville.

The upgrade includes replacing the control system which is not operating with a new control system and a 5.7" touch panel in the equipment rack. Currently staff uses four remote controls to override the different functions of the system that the control system and touch panel operate.

The sound system in the City Council Chambers will be re-commissioned with a Digital Sound Processor. The volume control for the Council Chambers and the hallway will be separated. A switch will be installed next to the deputy clerk's desk to allow staff control of the volume of the sound system right from Council Chambers during the meetings.

The cablecast system will be upgraded to an automated system which includes digital recording of events. This will allow playback of more than one meeting on our Cable Channel 10. Currently we use a DVD player and can only play the City Council meetings once a day unless staff manually puts a DVD in the player and plays it back.

Our current Carousel system which is used to program the Cable Access Channel 10 will be upgraded to the latest software. Staff will be able to update the cable channel from their PC's instead of going to the Carousel system in the back room. This will make the system available to updating by additional staff members.

Dascom provides a one year warranty on all materials. A training session will be provided upon completion of the installation.

\$14,729 is available in Public, Educational, Government (PEG) User Fees collected from the cable company. The remaining balance of \$5,167 is proposed to be funded from General Government Buildings.

Staff is recommending City Council approve the quote in the amount of \$19,896 from Dascom for the City Council Chambers AV Upgrade and Cablecast System.

DeRoche made a motion to approve the quote from Dascom in the amount of \$19,896 for the City Council Chambers AV Upgrade and Cablecast System. Moegerle seconded. She asked is this funding from the general government buildings going to be an interfund loan until we get more PEG fees in? Davis said we do get more PEG fees. He said he would recommend that you don't do that. He said we get quarterly payments from the cable company and he would recommend that we start banking this back up, because either way it will be a wash. Boyer asked do we have these funds. Davis said yes, we do. Voss questioned the amount listed; he said there is a discrepancy. DeRoche said it is a typographical error. Warren said that is her mistake. She said the correct amount is \$19,896.

DeRoche **amended his motion to a not to exceed \$20,000. Moegerle seconded the amendment.** Moegerle asked the microphones are fine. Warren said yes, the microphones are fine. We will be able to control the speakers in the different areas. Boyer asked if we checked references in the other cities. Warren said yes, she checked references. Jochum said the AV in Ostego is pretty good. **All in favor, motion carries.**

Council
Reports -
DeRoche

DeRoche said the fire fighters have an appreciation dinner Saturday night, he is going. He said the lakes are just getting to the point where they are dangerous. DeRoche said people are out fishing on Coon Lake. He said public works did a good job on the roads during the last storm. DeRoche said Ayshford is doing a good job.

Council
Reports –
Boyer

Boyer said Moegerle and Davis and he were in mediation for the GRE case for 13 ½ hours yesterday. He said personally he would rather set his hair on fire than do that again, but he thinks it was worthwhile. Boyer said he was traveling down Wild Rice around 6:00 a.m. in the morning of the snow storm and he watched two cars almost plow into the ditch at EJ's as they attempted to stop at the stop sign at that corner. He said he called Davis about this, but we could have easily put out more salt.

Council
Reports –
Moegerle

Moegerle said she has been busy with DeRoche and staff working on the ATV ordinance and we hope to have it available for Council to look at in two weeks. She said she did attend the GRE mediation and she has more mixed feelings about the results. Moegerle said we have had several EDA meetings and met with some developers and it looks like there will be some more and we have an interesting opportunity on the horizon. She said she did visit Sand Hill Crane and went on top of landfill, the view is magnificent. Moegerle said it is too bad it can't be sledding hill.

Council
Reports –
Voss

Voss said he has two things, both sent out. He said the letter regarding Lowell Friday; it seems it was referred to the city. He asked are we proceeding with anything? Vierling said we are waiting for the transmission of some reports from Anoka County and then we will make the decision on whether or not to charge. He said we will keep the council abreast of the decision.

Voss said you mentioned the ATV Ordinance, which he wasn't aware we were working on. He asked how did this start? DeRoche said there seems to be a lot of interest in the community. He said people want to use them for plowing, moving docks, ice fishing, and want to drive them down the roads. DeRoche said and he guesses, trying to use discretion of deputies to delineate between someone who is racing around being crazy or someone just using it for what is intended for is getting harder. He said he is one of the first ATV instructors in the State of Minnesota and he thinks there are a lot of misnomers about ATVs.

DeRoche said in the city, there is a lot of money that is being lost. He said we are looking at possible ATV/snowmobile trails in the city. This would be paid for by state grant aid. DeRoche said he is affiliated with a club down here and a club out of Isle. He said we maintain about 99 miles of trail, we maintain the trail on CR 22. He said we came in and cleaned the ditch. If we see any rutting we fix it. DeRoche said people are going to ride and we need to somehow give them a way to do it. He said he doesn't think we can legislate stupidity. DeRoche said he thinks when the last ATV ordinance was passed; it was a blanket ordinance because of certain instances that had happened. He said there are more than enough state laws that govern snowmobiles and ATVs. He said he is still an instructor

and he thinks it needs to be looked at. DeRoche said some of the other townships/cities are and if we were in the middle of downtown Blaine it would be different. He said everyone thinks if we do this and all these problems are going to arise. DeRoche said he doesn't agree with this.

DeRoche explained that Linwood uses their ordinance as a nuisance ordinance which he thinks it should be under, because if someone has loud pipes, whether on a tractor, or ATV, snowmobile, car, he doesn't think everyone should be pinned. He said and personally he does have an ATV and he does drive it down to the Purple Rain because that is where the city puts the big container to put all the weeds in. He said it is a heck of a lot easier to hook up my trailer to my ATV and unload it down there. DeRoche said we can help people by plowing their driveways out. He said and now you can't do that because you are going to get a ticket and it is \$140.

Boyer asked why we are not going through the normal ordinance development procedure. Moegerle said this will be going to the Road Commission. Voss said he would like to see a redline version. He said because what staff gave us did not have the redline, the changes. Davis said this is a draft that is going to be used as a guideline. DeRoche said this is not going to be coming to Council until December 21st. He said this was just to be given for a notice that it is being reviewed. Voss asked what is the state law in regards to ATVs on public roads. Moegerle said it is quite lengthy. Voss said it must be legal to ride ATVs on public roads. Vierling said in some areas. Voss said he seems to recall something about riding on MSA roads.

DeRoche said he will bring in a synopsis for the ATVs with all the laws. Voss said he is talking about operating them on the roads. DeRoche said it depends on the area. He said if it is a county road, it is different. DeRoche said if it is a city road, it is their rules. He said he recommends adults take the ATV safety class. DeRoche said there are more than enough state laws that apply to ATVs. He said you have to understand and read the synopsis. DeRoche said and if you are going to ride in a different city you better contact them and find out their rules. Voss asked but his question is, is it legal to ride on city streets by state law? Vierling said if the city does not prohibit it. Moegerle said that is why we have an ATV ordinance. Lawrence said he has had a complaint from our sheriff's office that our ATV ordinance is hard to enforce. Voss said that is fine, but that is the first he has heard of it. He said it would have been nice to know the reasoning and background on this. Lawrence said he knows Oak Grove is working on theirs, along with Andover. He said in fact they are forming a city relationship where ATVs can go back and forth without any issues.

Council
Reports -
Lawrence

Lawrence said he got a complaint about plowing snow and how it was a waste of time. He said but he also got people that wanted more ice control. Lawrence said he also had complaints about the aroma at Sims and 65. He said they were spreading manure in a field. Lawrence said and since it was a fertilizing operation there was not much we could do about it.

Closed
Session –
GRE
Litigation

**Moegerle made a motion to go into closed session to discuss the GRE Lawsuit.
Lawrence seconded.**

Vierling said for the benefit of the public and for the record staff is recommending we go into closed session per MN. Statute 13.D to discuss issues relative to litigation regarding GRE, a Minnesota Cooperative Corporation vs. the City of East Bethel, Anoka County Court File 02-CV-115368 and the mediation session that was held yesterday, so this will not

be recorded. Council will reconvene after the session to announce any action that has been taken.

All in favor, motion carries.

Vierling said for the record and for the benefit of the public the City Council has concluded the closed session regarding GRE, a Minnesota Cooperative Corporation vs. the City of East Bethel, Anoka County Court File 02-CV-115368. The closed session was attended by all members of the City Council; at 9:53 p.m. Council Member Boyer left the session. Also in attendance were Jack Davis and myself. Council reviewed elements of discussion of the mediation that had gone on yesterday, but took no specific motions during the course of the meeting.

Adjourn

Voss made a motion to adjourn at 10:20 PM. Moegerle seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk