

EAST BETHEL CITY COUNCIL MEETING

November 16, 2011

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

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Heidi Moegerle
 Steve Voss

MEMBERS EXCUSED: Bill Boyer

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

Call to Order **The November 16, 2011 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the November 16, 2011 City Council agenda. Lawrence seconded. Lawrence asked to amend the agenda to cancel the work session as posted after the regular meeting and to move the work session item to the regular City Council Agenda as Item 8.0 G.3 Discuss Business Proposal and also add after Council Reports as Item 9.0 C Closed Session – GRE Lawsuit with legal counsel. Voss said the work session is not on our agenda. Vierling said but the work session was posted for after the regular agenda. Voss said his point was it was not on this regular agenda. He asked what is G.3? Lawrence said discuss business proposal, just as a regular agenda item. Voss said so remove it from the work session and add to the regular agenda. **Voss said he is fine with the amendments. All in favor, motion carries.****

Sheriff's Report Sergeant Wiley gave the October 2011 report as follows:

DWI Arrests:

There was one DWI arrest as a result of driving conduct. The driver also had a suspended driver's license.

Burglaries:

There were three reported burglaries in October. Two of the reports were from the same residence. After the first reported burglary, the homeowner set up a video camera. He was able to catch the suspect coming into his house through a "doggie" door. He identified the suspect as a past babysitter of his. The suspect was taken into custody. The other report involved a firearm that went missing from a Coon Lake beach residence. An investigation was launched; however the firearm has not been recovered.

Property Damage:

There were six reports of non-criminal damage to property. Two reports stemmed from a vandalism incident where unknown suspects stole paper boxes from mail posts overnight. The paper boxes were not located in the area. One report of vandalism was to a city park where an ATV had caused damage to the grass. One damage report occurred as a result of a sign, advertising free kittens, being spray-painted. The vandal was located and admitted to spraying the sign as she felt the person should have his cats fixed as he advertises free kittens every year. An agreement was worked out with the vandal and the sign owner.

Thefts:

There were several reports involving golf clubs being stolen from Hidden Haven golf course on one day. There was not any suspect information other than a gray colored older passenger car seen in the area. There were three reports of thefts from vehicles. There was a theft of gun reported, that was recovered in Hennepin County. One theft report involved a boat being stolen off the owner's property (after being there for 8 years). One theft report involved a telephone call to a male advising him that he had won a lottery for a million dollars as long as he paid \$400 through a money pak card. The male did do this and gave the information to the caller so he could access the funds from the card. It turned out it was a hoax and the male is out the \$400.

These types of scams are happening all the time. Usually they involve people in other countries (overseas), and they are rarely able to be caught. Just remember if it seems too good to be true, it probably is. He also received a phone call from a gentleman that sounded like he was from South Africa and he told him he had won \$3,000,000. Sergeant Wiley said he asked him if he was going to be there at 3:00 p.m. He said, "Yes, he would." Sergeant Wiley said the gentleman told him all he had to do was give him a credit card number to take care of the Obama Tax and he told him not to call back.

DeRoche asked is there any way to find out which deputy? If we want to know the names of deputies, we contract with Anoka County deputies, correct? He asked is there anyway to find out which incidents our deputies take care of compared to Ham Lake or Linwood or county-wide? Sergeant Wiley said we would be able to track that information down, yes. DeRoche said he would be interested to see that.

Lawrence asked have they removed the nameplates off all the cars now? Sergeant Wiley said yes. Lawrence said he has been getting some feedback that we kind of miss the nameplates. Sergeant Wiley said we took them off because there were so many problems with residents wondering why one car was over in one place. He said a lot of times it is simple. It happens where we have somebody call in sick or it is a change of shift and they just stay in the car. Sergeant Wiley said so they might take a car to work in Oak Grove even though their shift in, say East Bethel is over. He said so their car is over there, but somebody else brings a car into East Bethel. It is just a matter of staffing. Sergeant Wiley said we just decided it was easier to take them off.

Voss asked do we not purchase a car? Sergeant Wiley said the cities don't purchase a specific car. You purchase a car to be available. Voss said as long as we have had contract cars they have always been marked. Sergeant Wiley said yes, that has been a long standing tradition. Voss asked so none of them are marked anymore? Sergeant Wiley said not with the city markings. Voss asked so the logos aren't on there anymore either? Sergeant Wiley said not with the city markings, no. Voss asked why weren't we informed of this? He said this was a huge deal a few years ago. Sergeant Wiley said this would have happened way up the chain of command from him. Voss said he would appreciate it if you would pass this up to Sheriff Stuart that we would like to know how this occurred without notifying the city. He asked the city administrator if he was notified? Davis said this is the first he heard about it. DeRoche asked don't we have three cars? Sergeant Wiley said 2 ½, with the CSO car. Lawrence said personally, he would like to see the city names on there. Voss said this was a huge deal a while back and he doesn't know if you heard about it. Lawrence said when someone does call him and ask why our car is somewhere else, he explains why. Like you said, instead of transferring all their things into another car, it is just easier to move the car.

Voss asked but at a million dollars a year? Lawrence said we should get our name back on. Voss said yes. Sergeant Wiley said he can pass that on.

DeRoche asked was that ATV incident alcohol related? He would be curious for his own information how old the person was, what they were doing: why they were doing it. Sergeant Wiley said he doesn't have that information. DeRoche asked how would he get that, through Lieutenant Orlando? Sergeant Wiley said probably, that would be easiest. Moegerle asked don't we have a police liaison, on the Council? Voss said he is. Moegerle asked so you didn't know about this? Voss asked how would he know about it? Lawrence said if they just do it and don't tell you. Moegerle said well, you are the liaison. Voss asked are we talking about the ATV or the cars. Moegerle said we are talking about your relationship with Lieutenant Orlando, I don't know how frequently you get back and forth with her on these things. Voss said he can't ask about something he doesn't know about. Moegerle said she doesn't know how often you talk to her. Voss asked what her point is? Lawrence said the only reason he knows about the car issue is the mayor of Oak Grove called him up and asked him how he felt about this. He said he told him he didn't like it. We want our name back. Voss said he assumes they do too. Lawrence said yes, they do too. Voss said because it started with just East Bethel and then Sheriff Andersohn decided to put them on all the contract cars. Davis said he will check with Sheriff Stuart tomorrow to find out more information on this.

MidContinent
Cable

Davis explained that he has asked Dan Nelson from Midcontinent Communications to appear tonight to address some concerns we have had regarding their transition of service from US Cable and be available to answer questions concerning customer service issues that have arisen from the transition.

Dan Nelson thanked Council for having him and said Tony Harding a local supervisor on the service crew is also here. He said he will present a few facts and then answer questions. Nelson said thank you for invitation. He said obviously we would prefer we didn't have an invitation to come in and explain the problems we had when we took over the system on October 1st and we did have problems. Nelson said we brought in up to 15 additional staff to serve this area and surrounding area during the month of October. It appears the problems we were having during the month of October, both responding to the problems and fixing the problems, we seemed to have cleared that backlog. Nelson said and we have our response time to request for service, back under one day, which is the standard and what is required. He said we did not have it there during many days in month of October and we are aware of that.

Nelson said in East Bethel, and across our system, we provided credits to customers. We have 60 credits we granted to customers in East Bethel and if there is anyone that feels they should have a credit or consideration coming and they are here this evening he will leave them his business card. He will be the person that will try to get that addressed. He said if not, we have cleared our backlogs and if you are not a satisfied client of MidContinent, call us. Nelson said he won't guarantee we can work this around and satisfy you, but we want to have the conversation and that is our goal. He said we are not here, or in any market we serve, to fail to meet expectations, or to leave customers unsatisfied. Nelson said if we have anybody in that position today, we want to have an additional conversation with you and see if we can rectify that. He said we had trouble in the transition outside of this immediate area. Nelson said we also discovered during the transition that MidContinent has a high clearance rate of technical support, assisting customers and resetting machines and fixing preferences. We have a high success rate of doing that. He said in this area we found that we had a

problem we couldn't solve by having a customer follow an instruction or pushing software down through the system. Nelson said it took a physical visit to change the configuration in each of these residences. He said it wasn't foreseen, it took more time than we anticipated and it left our customers and our service people frustrated. Nelson said because guys like Tony here, they aren't here to have customers waiting too long; even though they have their service back up they are still unsatisfied because the whole experience took too long. He said we put our customers in a bad position and our employees in a bad position, but hopefully we have cleared that all up now.

Lawrence said one of the major ones we have come across was that people that were using your e-mail, they lost all their old e-mails. One of the customers was using this for their business so now he lost all his references to a client. He asked can that be retrieved? Nelson said this was an action that MidContinent did not take. He said US Cable had their e-mails on a server and they took those items off the server after 30 days. Nelson said he thinks we can stand here today and say, the notice to customers should have been better. MidContinent should have had a part of that process. Nelson said the day it happened contacted US Cable and asked what could we do working to make that "cache of old e-mails" available to customers. He said and US Cable said they were not available, they are off the server. Nelson said he is not a technical person, but he would like to talk to this specific business person that lost the e-mail account and see if we can make an additional case work for that person and see if we can solve that problem. He is not hopeful given our response when we tried the first time, but we will try. He will make these calls himself to US Cable executives. Nelson said the digital information, he would hope, is preserved in some form somewhere and find a way to get at it. Lawrence said he will have him contact you through Davis.

Voss said he appreciates you being here. A transition is a transition. He said personally we experienced the cable change, and we put the call in and originally they thought it was equipment. Voss said and within a day they were able to fix it electronically; the cable. He said the response that MidContinent has and he has heard it through the community too, is pretty good. Voss said personally he is still having issues with the e-mail. The phone techs that part of the customer service, are much better than they were with US Cable. He said we haven't been able to solve the problems yet in the past month, but at least there are attempts there. Voss said but you already alluded to the abruptness of the change in the e-mail. It was disturbing. He said he found out three days before it happened. He had a little bit of a transition, but some people didn't. Voss said but it sounds like it was more of a US Cable issue than MidContinent. Nelson said but as he said, given it to do all over again, there would be messaging from MidContinent, for lack of a better term. He said the time where the e-mails are still available to you and it will expire, please do something. Nelson said that message needed to go out. He said there was a 30 day letter from US Cable and a 30 day letter from MidContinent but, in the transition, that is a lot of communication. Nelson said we will pledge to absolutely communicate better in situations like that. Voss said the irony was that we received a written letter and not an e-mail. He said to him, it would have been send out weekly e-mails from US Cable. It is a simple thing to do.

Voss said the only other comment he has, and he has heard it from others, is it seems like since the transition the internet is intermittent at times. He said sometimes you just lose your connection. Voss said the cable doesn't seem to do it. It is the internet. He said he didn't notice this before with US Cable. Voss said and he has heard it from a few other people. He said you test the speed and the band is still fast. Nelson asked but it seems to drop? Voss said yes, it seems to drop and you reset it and it is back. He said it happens often. Daily for someone who uses it a lot. Nelson asked is there a particular time that it is in or it is it pretty

much throughout? Voss said he is not around during the day, and he wouldn't have noticed it before the changeover. He said but other neighbors have noticed it. Voss said it is not like it is out for hours, or even minutes, you just lose the connection and then it is back. Nelson said and you say this has happened over time. Voss said probably since the transition.

Nelson said probably what we have to do is contact you and along with Tony see if we can do some monitoring. He said we will stake out your account. Harding said there are ways to monitor when you are on internet, not where you are online, but your service. Nelson said but also if a couple of your friends or neighbors or business associates that you have been conferring with would like to volunteer (again we are not here to see what you are doing) so we can look at your service and diagnose what is going on. Lawrence asked if it has been going on the last week. Voss said yes. Lawrence said because he doesn't have their service and he has had to reset his modem also this week. Nelson said we don't intend to have people resetting their modems every half hour. Voss said it isn't that often, but it is noticeable. Harding said we won't know you are having problems until you call us and then we can look into your history and see if there is a bigger problem in the neighborhood that is causing you to loose the service. Voss said it would be one thing if it was just mine, but he knows it is a problem in his neighborhood. He said he will call the next time. Nelson said we will contact you.

DeRoche said when you merged there was concerns on his part because he has been working with US Cable since before it was Citation Cable. It is a pretty dense area but it is pretty far out of the cities. He said we have always had substandard service and for the most part still do. DeRoche said so there are two things, were you guys made aware of that (number one) and did you bring in techs or did you take over US Cable techs. Nelson said the majority of our employees in this area today are former US Cable employees. He said we hired a large portion of the existing staff when we bought the system. Nelson said we have brought in and mixed in people from our organization because things are different; the way we operate from the way they operated. He said as we were discussing this before the meeting, you had paper invoices with US Cable, but we do everything electronically with MidContinent. Nelson said there are changes in procedures and actual changes in technology. He said now there could be two issues with your location and he is somewhat familiar with your location, that it is geographically isolated from the rest. Nelson said it is across the lake. It is not contiguous with certain other neighborhoods and issues there could be the length of reach to get to you or some of the things in the configuration in providing you the services. He said those are the kinds of things we are changing. Those are the kinds of things that caused us problems in the transition. Nelson said one of the hardware challenges we found was there was a block on the return path. He said so we are trying to communicate with your cable box and in your home there is a block that keeps the message from you coming back from us. Nelson said this is something we didn't know and every place we found that we had to correct it. He said he is not trying to diagnose your specific issue but if, in fact, it is not as good service as you desire, we want to document that. We want to know that; we want to analyze that. Nelson said we want to solve it.

DeRoche said the fact of the matter is, he would be curious if US Cable turned over all their service records to you. He said because in the last 20 years he has had the cable company out probably 35 times and ran the cable himself because they said they wouldn't bury it. DeRoche said he was told his TV wasn't any good and this was all back when Steve Johnson was a basic tech. He said so when he stood up here when you were talking about the transition and he brought it up as one of his concerns. DeRoche asked, "What is going to happen to the service. Is it going to get better?" He said my house isn't an isolated incident.

DeRoche said we kept being told, "We were so far out, we need to take care of the more dense areas here." He said the fact was we were the cable service here before any of the developments here. DeRoche said we were the ones that supported it, got it up. But when upgrades happened, it didn't happen where we are at. He said he is not going to put that on you because you are pretty new at it.

DeRoche said but when the cable did transition, he called three times, waited, waited, waited, and finally called the CEO from MidContinent. He said he got his voicemail and he got a call back from some gentleman called Clay. DeRoche said he told him, "Sir you got a letter in the mail you should have known (this and that)." He said he told Clay first thing, don't tell me what I got in the mail if I didn't get it. DeRoche said he told Clay we had the meeting and were told everything was supposed to be smooth, and if it is equipment fine but somebody needs to deal with it. He said he went without cable for 3 or 4 days. DeRoche said to some people the internet is more important. He happens to use both the services. He said he hopes the service gets better because with US Cable it was terrible and he has no qualms about saying that to Steve Johnson's face. DeRoche said when someone calls one of the most frustrating things is to be on hold for 20-30 minutes and then they pipe in the happy "feel good" music. He said and that adds to the frustration for a bit. It would be nicer if you could get someone to check in every once in a while and say, "yeah we are really sorry." But then you get the recording that says we are having higher than normal problems. DeRoche said that is something that as a company he would work on. Because there is a lot of people where he is at that have just cancelled out of cable and got Direct TV or something else because they couldn't get decent service.

Nelson said we understand exactly what you are saying. He said he thinks the reason we were interested in purchasing this system is because we can, and know that we can, do better. Nelson said we think this is an underserved market. He said the competition from Direct TV and Dish Network, both on price and service offerings, has been intense. Nelson said there is true video competition. He said with the internet, it is a little bit easier for a company like MidContinent to distinguish themselves. Nelson said we are not off on a very good foot on distinguishing ourselves. He said but that is our intention. Nelson said and in your describing your relationship with US Cable and getting started with us, you described two different types of problems. He said hardware and physical plant problems and customer service problems.

Nelson said the customer service experience you had with MidContinent is not the usual one. He said we were overwhelmed, and that is not an excuse. But we were overwhelmed responding to the problems that occurred. We did not have the kind of response and timeliness that we wanted. Nelson said some of the issues that we were dealing with, were issues we were going to have to deal with such as hardware and technology not matching up. He said but if we could rollback the clock to September 15th we would have twice as many people to answer the phones and to come to your home and clear out some of these problems we had. Nelson said we didn't anticipate those correctly and we are offering our apologies and offering credits against lost service and inconvenience. He said want to talk to you about how we can serve you going forward and repair this relationship. Nelson said we don't hold people to contracts, we don't want to use gimmicks. We want to provide service on a monthly basis that you want to pay us for. Tonight is not call the 800 number night. "We are hear to solve the problems." DeRoche said to him it is indication to how many problems that were already in existence. He said because if you guys came into it and there were already this many headaches to start with then, somewhere down the line, something wasn't going right when you took it over, with US Cable. DeRoche said he can't imagine that you

came in and said "let's just screw these people." He said but he doesn't think you came in here thinking there were going to be this many problems. Nelson said it is fair to say we encountered more problems than we anticipated. He said but we are talking about US Cable and they are not here to represent themselves. Nelson said so, he can say something about MidContinent. He said in his experience if MidContinent handed assets off to another operator he doesn't think the transition would have been the same as we experienced. Lawrence said thank you for your time and hopefully we can get this issue resolved. Nelson said and the ones we talked about tonight he wants to be the one to get them resolved. He thanked Council for their time.

Anoka County
Hwy. Dept.
Signalization
Project at
221st Ave. &
Hwy. 65

Lawrence explained that representatives from the Anoka County Highway Department are here to update the Council and residents on the 221st Avenue NE and Hwy 65 Signalization Project that is scheduled for 2012.

Jason Orcutt from Anoka County said, "We are here to discuss the project as a whole and the changes we have made to the design to minimize impact to residents as well as discuss some of the improvements we were able to make."

Orcutt said we have applied for federal funding for the safety improvement project. This was the #2 project on the list. He said one of the issues at hand was the property in the northeast corner. Orcutt said since our last meeting we came in with a rural design and it had a wet pond with ditches. It required permanent Right-of-Way (ROW) from that parcel of a little over 1/2 acre, an easement of a little over a 1/2 acre, and temporary easement of about 1/10 of an acre. Orcutt said since that time we have done two different iterations, one October 17th and one November 9th. He said since that time we have been able to reduce the permanent ROW impact by 68%. So now we are at .17 acres permanent ROW. Orcutt said we have reduced the permanent easement 71% so that is down to .15 of an acre. And the temporary easement saw a 79% decrease, down to .17 acres.

Orcutt said what we did there, to do this, is put curb and gutter in, minimize everything we can; put in a drainage structure to collect the water from Mr. Kable's field in that area instead of having a long ditch and running it. He said we were able to take the pond and pretty much make it into a drainage swale. Orcutt showed a map and the red area was what we were able to save on the property and still allow the right turn lane, which is required by MnDOT and overall important to the project. He said all the red would have been permanent acquisition. Orcutt said we really put in a large good faith effort to try to bring this within the objectives of the project, which are to make your community have a safe crossing at this intersection. He said if you notice, in the large area where Mr. Kable farms, we won't be needing anything permanent. Orcutt said and the drainage swale is mostly on the county ROW. He said this is a protected wetland, so there are things we have to do to meet the watershed area. Orcutt said on the map where there is yellow is County ROW and a good portion of the widening is going to take place in County ROW. He said about half of the turn lane and straight through will be in the County ROW. Orcutt said if we were to eliminate the right turn lane we are still required to have a shoulder there and we would only be saving 5 feet of pavement. He said when you visualize it like that, it is a very small portion for what this adds to the project. Orcutt said since that time there were questions of whether we could shorten the turn lane as well and because of the MnDOT and highway engineering manuals you just can't arbitrarily shorten that turn lane. He said you need time to decelerate and accelerate safely. Orcutt said we wanted to show tonight the changes we have made working with your city engineer and our staff and that we have made some very large decreases. He said the smallest decrease we have made is 68%.

Lawrence said he has some questions that residents have brought up to him. He asked first, on the south side of road you say that is protected wetland, even though it was man dug? Orcutt said they can become that way. Our ditches become wetlands. He said the DNR has it listed as protected wetland. Orcutt said ditches we dug to convey water are now considered wetland.

Lawrence asked have you talked to Mr. Kable about the new design. Is he happy with this? Orcutt said we have made efforts to contact him. We are going to try to contact him again as well. He said we wanted to bring it to you folks as well and some of the neighbors that were helping bring information to him. Orcutt said we have sent him letters in the last three/four weeks saying we can meet with him anytime he wants. We wanted to show you the efforts we made, show him the efforts we made and then look forward to a successful project.

Voss asked about the purple area, on the west side is that no longer going to be there? Orcutt said that is just showing the County ROW. He said that is just showing that not only do you have the issues on the south side, you have ROW on the north side available so there were a lot of design decisions going into that. Voss said that is not a pond on that side. Orcutt said that is not a pond. He said where the service road used to be, we are doing the same type of drainage swale, inside the existing ROW. Voss asked on Hwy. 65 is there any grade corrections going to be done to the crossover portion. Orcutt said yes there is. MnDOT is going to do a "Better Roads Project". He said they are going to do the concrete white top on this. Orcutt said they are going to try to pick that up in the middle, so you don't have the up/down/up/down. He said there is a limitation of how much you can do that.

Voss said just from casual observation, most of the turning action is going to be in the evening from the northbound going west. Orcutt said he would say that is a fair statement. Voss asked is the design to extend this turn lane any further. Orcutt said that is a good point. He said when we took this project, we had an initiative to extend that. Orcutt said MnDOT is extending that to 500 feet. With this intersection and allowing the lanes on 221st to be separated, as well as extending those turn lanes, you are going to get a lot better operation. Voss asked will this be designed like the turn lanes on Viking? Orcutt said no, it will not be the same here. He said that is part of the reason those intersections don't have turn lanes, they built them so small. Orcutt said that was a design that they had previously that they used.

Lawrence said he had checked with state on the request for the three lanes; right turn, left turn and straight through. He said he wanted to know why we needed so many lanes for so few cars based on the statistics we got you are running 2,000 cars a day on east side and 3,000 on the west side. Lawrence said but the explanation they gave back is reasonably simple. He said they said they are trying to minimize as much red light time on Hwy. 65 as possible. Lawrence explained that it is the red light time they are looking at, not the number of cars going across. He said they know if they look at right turn, center and left turn lanes they will get that goal to a minimum. Orcutt said that is exactly right. He said that is exactly what we knew and it is important to say to your residents that once you do turn to go south, we want that to be as much green time as possible. So by doing these intersections correctly they will have better timing. Orcutt said they are planning on a lot of enhancements with this as well with cameras and such, so they can connect. The signals can talk to each other and get in sync.

Voss asked if we are going to be stuck with the three lanes, is there any consideration of the

west bound. You have a left turn lane, but making the center lane a dual, a second left turn lane. Have the option to go straight or turn left. Orcutt said with this project that wouldn't necessarily set you up for that. He said but with putting the right turn lane in, if you ever did get to a point where you need a second left, then you could add a lane on the outside of the right turn lane. Orcutt said so at this point no. Voss said because that is what Viking needs. He said when people have to sit through two sets of lights which is 10-12 minutes. Voss said obviously the intersection has to be a little bit bigger. Voss said it is like you said, pushing volume through. Orcutt said that intersection is not designed like this intersection. He said he was talking to Mr. Witter before this meeting and when they designed that intersection they were projecting it for today and we are taking this one and projecting it for 20 years out. Voss said but you are saying this one has the potential to do that. Orcutt said if you have a reason to do that, such as if development comes in the future. Voss asked why would we have to widen the road. Orcutt said what you are doing is putting the left and through together, which you don't want to do. He said the through has to go somewhere so it would push it out to the outside right lane. Orcutt said a lot of these projects on this list are from MnDOT splitting this out.

Lawrence asked on your projection are you going to do east side first and then the west side? Orcutt said that is another good point. He said that is called split phasing like down at 109th. Orcutt said no, these will both turn left at same time. Voss said that is how Viking is. Orcutt said MnDOT is really making an effort to use technology. They can't really widen this at this point, but they want to make this move faster. He said that is why they are saying this third lane is not a want. It is a need because we need to keep traffic moving through this intersection. Orcutt said this is so we can get your people in and out.

Voss asked what is the construction timeline? Orcutt said this was a 2014 project. He said but we had a request to move it to 2012. Orcutt said so we expedited the project. He said with your approval of the JPA, if we get that document done, we can get this built quickly in the next year. Orcutt said otherwise it will slide another year and construction is at a low right now. He said this will save the county money, the state money and the city money. Orcutt said the sooner we get it done, the sooner it is safer. He said we have a pile of comments that are asking for this, a couple with concerns, but the majority are saying get it done and get it done now. Davis asked what is the drop dead date for the JPA? Orcutt said to actually get this built next year and there is some benefit to that, which he can cover quickly before that question. He said when MnDOT does their "Better Roads Project" they are going to put a temporary signal here because they are going to take the traffic from one side and shift it to the other. Orcutt said with the timing of 2012, it will work out perfect for us and the city. There will be a signal there and when we open this project you are not going from a stop condition to a signal all of sudden. The people will have been driving through this temporary signal all summer long, so there is a value to get this done next year just from that simple point that then it is a known condition.

Orcutt said to answer your question about the JPA he would say we are going to need something in the next couple weeks, because we need to get the ROW process moving and to give the property owners time to review the offers and make their own decisions. He said we have been very extensively meeting with all the different property owners out here. Orcutt said we have been at all the different kitchen tables that were willing to have us there, numerous times. Davis asked their availability to discuss issues with the JPA. Orcutt said we will make sure one of us is available. He said this is very standardized. He can show you one that we have done with other cities. Orcutt said we are not asking what we have with any other city. Davis said his only question would be we haven't done a JPA since the Cooper

Corner light was put in and this JPA is considerably different from the ones we have executed before (especially in terms of our obligations and responsibilities) and that is one thing we would like to sit down and discuss with you before it is brought to Council again. Orcutt said we can sit down and discuss this with you and hopefully show you what our rationale is on this.

Voss said fairly recently streetlights got put in at this intersection. He asked how long ago was this? Davis said in April or May. Voss asked who put these in? Davis said that was the state. Voss said that was a nice improvement to have those there. Orcutt said those will be permanently on the signal poles so you will get better light distribution, more consistent light distribution throughout. He said our staff is available to meet with people. Orcutt said you can reach us, you don't get an 800 number. We make ourselves available to the residents and staff. Orcutt said and if you don't get him you can call up the chain and get him.

Orcutt said one question a Council Member had last time was what this is supposed to do, what is the nuts and bolts of this. He said this project is projected through the formula that MnDOT uses (before and after studies are based on 3 calendar years prior and 3 years after construction) for side swipes be reduced by 60%; for right angle injury be reduced by 55%; run off the road be reduced by 30%; property damage be reduced by 60%; head on be reduced by 60%; other total crashes be reduced by 25%; rear end be reduced by 15%. Moegerle said but one of the things that came up and DeRoche and I have discussed this was the anticipation that hard impact collisions would be reduced. She said but there would be more low impact collisions in that. Moegerle said that is kind of what we had been told by law enforcement before to expect. She asked and without having seen your data does that reinforce what we have been told? Orcutt said it reinforces perceived from a police officer, because they will come to a lot of these low speed rear end crashes. He said rear end injury crashes this has a 0% reduction and property damage 15% so it is not a great reduction. Orcutt said he wouldn't say it is going to increase, but it is not a great reduction. Moegerle asked for a copy of the data. Orcutt provided a copy. He said that was the actual application that went in for the funding. Orcutt said this is on MnDOT's top 100, he thinks it is number six. He said and it was number two. Orcutt said it was very competitive process. He said there were many cities Chanhassen, Anoka County, Ramsey County, Maple Grove, all vying for this money that is going to be put at this intersection. Orcutt said so there definitely was the need there or we wouldn't have gotten the money. Moegerle asked you have reductions in positive and negative numbers, where it says -60% does that mean it will be an increase? Orcutt said he thinks the way the table is set up, it is a decrease but the table is not set up correctly. Moegerle asked for verification on this. Orcutt said he will get that verification, he thinks they did this chart incorrectly. Moegerle said so long as it is consistent. Orcutt said he doesn't think we would desire to put something in that is going to increase this by 60%. Moegerle said exactly.

DeRoche asked "In situations like this you don't see an increase in people trying to beat the light?" Orcutt said we use the data. He said he is sure you will have an increase because there is no light there today. He said so if one happens that is an increase. DeRoche said he is not talking one here. He said he is talking two years down the line. DeRoche said you know as well as he does at Viking that is a long light so you have people that don't want to sit there so they go for it. Orcutt said so that exactly reinforces having the dedicated left and right turn lanes. He said because at Viking if that person is turning left and he wants to go straight, he has to wait. Orcutt said and the people behind me have to wait and he is getting more impatient by the second and he is going to take more chances. He said so this is the right thing when you have the three lanes because you can take the anticipation and that

aggressive driver and you can try to calm them now. DeRoche said if you can get something on the negative numbers and what they mean, that would be great.

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

LaVonne Murphy of 2557 225th Avenue NE introduced herself, Laura Murphy of 2557 225th Avenue NE introduced herself and Bill Lappin of 22706 Sandy Drive NE introduced himself. Lappin said we wanted to come up here with our concerns and he is glad the County addressed a lot of the concerns for the Kable family. He said Mr. Kable doesn't make these meetings and he just gets upset. Lappin said his farm his parents had and it used to be where Hwy. 65 is now. He said when he gets upset his mother in her 90s gets upset and he can see the strain on the family. Lappin said it is something we are very concerned about, although he appreciates what you are doing. He said he might not have heard everything. Lappin asked the one thing he is wondering about is they are taking for the concrete median and the three lanes from Mr. Kable's side the north side? Orcutt said the median, left turn lane and through lane are going on existing, what is already there. He said then the rest of that is in County ROW and what we are needing to acquire from Mr. Kable. Orcutt said but like he said before, if we get rid of that outside turn lane we would only save 5 feet. Lappin said there was a survey done in the community and they were wondering why we need a right hand turn lane since there was very limited use of turning right going north at the time the survey was taken.

Harley Hanson of 1960 221st Avenue NE said there were two cars to the right, nine cars to the left and fifty cars going straight ahead. He asked so does qualify for a lane with two cars going to the right? Hanson said he thinks that is what he was referring to. Orcutt said those are considered the peak hour count they had, so that is not based on the entire day. Also, it is lower if you have two coming through every hour and if they have to sit and wait for the other cars to go through you are taking that time away. Hanson said he will agree with you 100%, but there is traffic going north and you will still have to wait to get out in traffic. He said so it is not a valid thing to have a right turn lane. Orcutt said but you can get out in a gap when you have a right turn lane. He said if he is sitting at a red light because there is more traffic coming from the south and he is stuck behind someone that is going straight. Orcutt said if you have the right turn lane, you will be able to get out.

Hanson said he has been up here for seventeen years and the longest time he has waited is three minutes, maybe five if there is a school bus up there that is going straight across. He said there are very few people that are going to the right. Hanson said and now we are taking property from Mr. Kable for that reason. He said you measured it up and there is actually 38 feet of road on that side and you will be putting snow on that corner. Hanson said he doesn't know if you took that into consideration. Orcutt said we did. Hanson said and you have all the debris, salt and sand floating to the north. Lappin asked when you are turning right, you need that lane because those people might end up behind the people that are going straight. Orcutt said they could be. Lappin said one of the things he didn't understand before was the fact that they are trying to eliminate red light time. He said he didn't appreciate that before, he didn't know that. Lappin said when he talked to Mr. Kable about this project, he is in agreement with everyone that we need a light there. He said Mr. Kable is not against it, we have just recognized a hardship against one particular family.

LaVonne Murphy said first of all she wants to thank the County for all their efforts on reducing the impacts thus far on the property owned by Mr. Kable and his mother. She said

thank you for the opportunity to share the results of our poll/petitioning “The City Council to Redevelop the Plans for the Hwy. 65 and 221st Avenue Intersection”. It is not about the elimination of the stoplights that are proposed, this petition is about listening to 192 East Bethel resident engineers requesting fairness in the development through collaboration with Anoka County. Murphy said we have neighbors, our community members on the east side, Mrs. Phyllis Kable and Mr. Dick Kable who this expansion will affect the most. She said three lanes, one median and one eastbound lane, including a pond which is now identified as an infiltration area. Murphy said 192 East Bethel residents are requesting the City Council to work collaboratively with Anoka County with the aim of reducing the impact on the property owners through equal land acquisition on the north and south side of 221st. She said reducing the number of lanes westward from three down to two (86% regard the reduction as a feasible way to reduce the impact on the property owners). Murphy said also removing or reducing the infiltration area from just north side to both the north and the south. She said the whole idea is about fairness. Murphy said it is not about not putting a light in, every one knows we need a safety measure there through lights. She said and she feels as though it should be split 50/50 on both sides, east and west.

Lappin said but you are saying it is only 5 feet more past your ROW for the turn lane. Orcutt said the savings if we took out that turn lane is only 5 feet. He said so we would take that 13 feet and it would be reduced by 5 feet. Lappin asked and there is no way of extending that from the other side? Orcutt said we have looked at all the options, we originally gone through and there are cost issues, environmental issues, protected wetlands, there are numerous issues as to why. He said we looked at issues of fairness also. Orcutt was looked at the fairness of the cost to the taxpayers, where does it make more sense. He asked do you buy buildings? Lappin asked would you necessarily have to take the buildings? Orcutt said yes, you would. Orcutt said it is not solely that issue. He said there is the impact on the wetlands. Orcutt said the DNR is going don't impact our wetland because you have a solution to this. He said it is not about the fairness of splitting 50/50 with them, it is about protecting the wetlands.

DeRoche asked Orcutt to address the alignment issues that were brought up previously as to why it couldn't go on the south side, or why it wasn't suggested to go on the south side. Orcutt explained that we had originally met with your city administrator and mayor about a few of these issues with widening the existing center line of the road and splitting the difference all around. He said if you widen to the south you have significant impact on only the south side and you have issues with the buildings and the environmental issues as well. Orcutt said when you go about the center not only do you impact the south and the north side, you also hit the buildings. He said the County owns property in that northwest quadrant. Orcutt said this is a financial, this is an impact to the residents, this is all those things we look at and balance that. He said because just like you guys, we are put in these types of situations all the time, you have to balance the best way for the taxpayer. So what we are doing is working to minimize and we have taken this down 71% and that is a pretty good effort he things. Orcutt said there are other property owners we are acquiring property from. He said they are not the only ones. Orcutt said if we were to shift it to the south, you would have those property owners in here as well. He said what we did is we balanced this out. Orcutt said everybody is giving some. He said we are utilizing all the County ROW that we have, and then we need to add that through lane and turn lane there.

Lawrence asked how many feet of County ROW do you have? Orcutt said he thinks we are at 33 feet there. He said the unfortunate thing, is when you are at the intersection (have a property there) and you have a right turn lane, you are going to be impacted more than a

property down the road. We have really worked to minimize this. Orcutt said he has personally met with the Mr. Kable at least four times. He said he has been out there with the senator, commissioner, with the ROW people, and with one of our staff people. Orcutt said that doesn't even include all the letters we have written back and forth. He said we are really trying to keep Mr. Kable involved. Orcutt said he understands he can't be here tonight, but he really wishes he could be so that we could work through these even more with him. He said this is 165 feet from the edge of Hwy. 65, from the through lane he is 165 feet, from the county road he will still remain 238 feet from the roadway. Orcutt said we are trying to keep the road as far away from him as possible and minimize the impact. He said we commend the neighbors that have been doing this, he has never seen neighbors stick up for another neighbor like this, and he appreciates this.

Voss asked we have center medians on both sides, east and west, correct? Orcutt said . Voss asked how large are they? Orcutt said four feet. Voss asked and they are raised concrete? Orcutt said yes. Voss asked and the need or requirement for those? Orcutt explained that the requirement is MnDOT as well as Anoka County likes to have them. He said it provides delineation when you are crossing that lane, it gets you put into your lane. Orcutt said when it is snowing those help you get where you need to be. Voss said he agrees. Orcutt said and MnDOT made it very clear to us that they want those in there. He said we are stopping them prior to driveways. Nobody is going to have to do a u-turn to get home. Orcutt said we were also working with the concern that fire and emergency services could get in and out at all times. He said Mr. Kable's fence will be relocated before construction and then put back like he requested when it is done. Orcutt said everything we can do to make this easier for the Kables we will do. He said he would direct you to public cards from our public meeting. There are some very strong statements from family members that have lost people at that corner that say, "Put that light in, get it done and get it done now."

Hanson said first of all, we all agree we want a controlled light system on that corner. He said but there are some facts with our citizens and our petition here. Hanson said we talked to many people in this area and their concerns are we are over engineering this corner. He said the unfairness of equalizing the road is another big factor they brought up. Hanson said and the multiple lane thing which he is not in favor with. He said and the pond and the curb in this rural area we are in out here, we are 20 miles from the big town. Hanson said he knows it is a county project so he tried to talk to Andy Westerberg and we met with Mike Jungbauer also. He said there concerns are not there, he believes. Hanson said so he went beyond that, to Tom Hackbarth. He said and Tom would have been here he is very displeased with the county decisions on the road here. Hanson said that corner is a problem, but let's not make a bigger issues. He said he has brought up the snow and water issues. Hanson said if you are coming down the third lane, it will be a braking lane. He said that will be a water lane. Hanson asked why can't we have the water run to the north. He said instead of bringing the water down off of Mr. Kable's property and we don't know how much water ran to the Kable's property before. Hanson said if we are doing a design, let's put that water to the north, instead of south of the highway. He said and he went over these counts already, but we don't have a count on the west side, we have a count on the east side, but not the west side. Hanson said they gave us a number of 2300 cars traveling on 74 and going west here, obviously that is 1100+ because there is two way traffic. He said he doesn't know if that is that big of a concern. Hanson said a multiple lane corner like that, sure you are going to have to wait, but every corner you are going to have to wait. He said he hopes Council can take this into consideration. Hanson said Hackbarth will be in town at the end of the week and he had his office call him today and he just reviewed this with the city administrator, they are quite concerned about this. He said they are going to take this up

next week with the county.

Andrew Witter, assistant county engineer, asked to respond to some of these issues brought up. He said this is a standard design. Witter said if we start adjusting the medians, turn lanes and other design factors that we have included in this design you will not see those safety and crash reductions that we gave to you earlier. He said at peak volume you have two vehicles in the turn lane, but you also have to be talking about the nine vehicles in the through lane as well. Witter said if you start combining those lanes, you have to combine those numbers too. He said he thinks last time he brought up the fact that one of the reasons we do two lanes like this is to clear the intersections. But it is also safety. If you start combining those right and through lanes all of a sudden you have a vehicle coming up on a green (which you don't have now because it is a stop) and someone is stopped waiting to turn and someone is trying to make the green. All of a sudden you have an accident situation. Witter said that is part of the reason we like to separate these turn lanes and create some segregation. He said also Orcutt alluded to this earlier: we build these intersections for the future. We don't want to come back and add to this in the future. Witter said this does cost a lot to build. He said he knows the city has some development plans, and he thinks your comprehensive plan indicates this area is commercial development. Witter said you already have one commercial property there in the area. He said we are building for the future not just now, we know the volumes are not extremely high right now. They are much lower than what you are seeing on Viking, but we are trying to do this for the future to.

Witter said with the drainage issue and salt and sand. Right now, they runoff into a ditch system and, frankly, he doesn't know how good that is. They might be running into Mr. Kable's field right now. Witter said with the storm sewer we are getting this into a treatment swale and will be able to treat this water. We will be able to treat that runoff so we don't have the issues with pollution and so forth. He said we are required to contain all of our runoff and treat it. Witter said and the last thing is MnDOT is a big partner of ours. We have been coordinating with the project they have going on. He said frankly we have had conversations with them and they have told us if we don't have this lane configuration, we probably don't have a project. Witter said this is a project we want to do for safety reasons and to protect the residents of East Bethel as well.

Hanson asked speaking of the money involved, the federal grant, where is the money coming from anyways our taxpayer's dollars, so we should have an input in it. He said and you talked about people going through stoplights. That is up to our police department to take care of it. Hanson said you have that going on everywhere up here.

Tom Ronning of 20941 Taylor Street NE said he heard "fairness" what it really should be termed is "equality of sacrifice." He said there are four corners, northeast, northwest, southeast and southwest. Ronning asked who is sacrificing? If it is not on an even plane, why? He asked and unless it is going to be an eight second light, don't you think you are going to have that hard of a time getting nine cars through? Ronning asked how long is the light going to be going, 30 seconds, a minute? He said that is what controls the traffic flow is the time of the light, not if you have 14 lanes for this kind of traffic.

LaVonne Murphy said thinking of the future, she would remove the light and put a service road in. She doesn't know why we are creating another stop and go situation on Hwy. 65. Murphy said if you are really looking towards the future you should remove one at either Sims or 221st. She said saving a million dollars and then improving the light to the south. Murphy said just a thought can we shorten the turn lane by reducing the speed ahead of time

before people reach the intersection. She said her concern is the turn pocket right at Mr. Kable's driveway, first of all the amount of snow that will be left there in the winter when he is trying to get in and out with his aging parent. Murphy said there will be close to three lanes of snow in his driveway. She said those are some additional concerns she has.

Dan Scherping of 21835 Zumbrota Street NE asked why don't you take a certain percentage from each side. He said you are not taking anything from the Lamberts side and you are taking it from Kable's side. Scherping said when you look at that picture you see all the red on Kable's side. He said he sees how 74 shifts to north and now they aren't going to put the pond in on the corner of Sandy Drive. Scherping said see how 74 shifts to the north by Sandy Drive, why aren't they taking anything on Lampert's side. Orcutt said if we shift it over, we have to take the buildings. Scherping said the buildings are all junk anyways. Orcutt said as soon as we get the turn lane done we are taking nothing. He said we are actually taking the water off his property into the storm sewer. Scherping asked you are going to put a culvert in there? Orcutt said correct. He said it is not like we are going trap water here. DeRoche said he is thinking what Hanson was saying with all the red on Hwy. 65 all the water is going to come down when that is not in fact what is going to happen. Orcutt said we wouldn't want all their water. He said there has been a lot of focus on Mr. Kable, but he wants to direct you to the red in the other areas. There are a lot of other property owners we are going to get property acquisition from. Orcutt said we look at equality from all of the property owners that pay taxes as well. Scherping said but Lambert isn't giving any. Orcutt said but that goes back to potential contamination, protected wetlands, buying those buildings. He said he lives in the county too and these are taxpayer's dollars we are spending. Scherping said someday this is going to have to be cleaned up. Orcutt said and he doesn't think the taxpayers dollars should be paying for it. Scherping said then Lampert's should be cleaning it up then. Orcutt said we don't know what is all out there.

Witter said we did go to an urban design to reduce the impacts to the property owners. He said we can go to an rural design, but that will be much more impacts to the property owners and he doesn't think that is what anyone wants right now. Moegerle asked can you explain the contrasts of a rural design to a urban design? Witter said he will do his best. It is hard to do without pictures. He said what ends up happening with a rural design is you end up losing the curb and gutter. You have a 4 to 1 slope down to a ditch bottom and have roughly a 5 foot ditch bottom and then you have to slope it back up to tie into the existing grade. Witter said what you are looking at, instead of curb and gutter and in slope, looking at in slope, ditch bottom and back slope of ditch as well. He said so while he can't tell you exactly, you probably have an additional 10 to 15 feet of impact.

Witter said at the last Council meeting we presented and looked at three different shifts on the Lambert and although the road doesn't get into the building, the slopes and construction limits do. He said which means we have to take that building. Not only do we have to take that and compensate them for it, but typically we have to rebuild it as well. He said it is a very large cost. He knows they are not the greatest structures out there right now. Witter said but once you get into negotiations, condemnation actions, you find out what the values of those buildings really are. He said so that is part of reason we are avoiding this. Witter said and we are confident that there are some hazardous materials in there. He said that is another added project cost that we just don't want to get into. It is not critical to the project, nor should we have to increase the cost of our project to correct someone else's issues. Moegerle said she wanted everyone to understand what you are saying. She asked if they understood what he is saying. Hanson said we still do not have the cost of the buildings

there. Lawrence said but you know as well as he does, the second you condemn it, it is worth 10 times what it is worth now.

Witter said we do have typical square footage value of these type of buildings and what not, and he thinks these were included in the cost analysis. Orcutt said we used lower numbers than we normally do because of the condition. He said the thing about building “like” structures is if you have a 20 x 20 garage and we take it down, and it was built by your grandfather, we have to build you a new 20 x 20 garage or pay you for it. It has to be today’s standards, today’s codes, it has to meet all those issues. Orcutt said we have been through this numerous times and so have you folks. You know all of a sudden that is a gold mine when that happens. He said we are trying to be stewards of taxpayer’s dollars. Orcutt said he can answer the rural question. If we were to go with the original thing, when we said it comes down, we did a ditch and then we come back up, like you have everywhere around here we would have needed .55 almost 6/10 of an acre. He said so we were able to reduce that by 68%, took it down almost ½ acre by putting in curb and gutter. Orcutt said we aren’t running the water all the way down now either, every 300 feet there will be a structure that the water will go in. He said that will be dry, there won’t be pooling water there. Orcutt said permanent easement is another thing you would have had there too, and that is taken down there about ½ acre also. He said that is why we did what we did and direction of being stewards of the residents as well.

Lavonne Murphy asked the structures you have the water running into, can you tell me the size they are and what they are constructed of? Orcutt said they are pre-form concrete. They are designed to the size of the pipe and as it goes down it has to get a little deeper. He said typical height may be 3 ½ to 4 feet by 50”. Orcutt said they are made at a factory. He said to make it easier they are 3 to 3 ½ foot in diameter. Orcutt said the water goes in and it carries it down. Murphy asked how many are you planning on? Orcutt said he can get the exact number, but roughly every 300 feet. He said we are decreasing the water that was coming to his property.

There were no comments so the Public Forum was closed.

Consent
Agenda

Voss motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, November 2, 2011 Regular Meeting; C) Meeting Minutes, October 26, 2011, Town Hall Meeting Minutes; D) Res. 2011-57 Final Certification of Delinquent Charges; E) Res. 2011-58 In Support of Continuation of the Current Fiscal Disparities Law. He said he would like to pull Item F) Site Plan for Recycled Oil Tank Location. **Lawrence seconded.** Moegerle said she has her usual changes to the minutes, grammar, spelling. **All in favor, motion carries.**

Item F – Site
Plan for
Recycling Oil
Tank Location

Site Plan for Recycling Oil Tank Location. Voss asked the city administrator to walk us through this quickly. Davis said this is the plan that was presented by East Side Oil at our last meeting. He said what we would propose as our first choice for the location is just adjacent and south of the existing oil recycling shed. Davis said this still gives us the traffic flow to get to this and a buffer from the highway and it will still be visible due to the signage. He said the other options we looked at were to put it on the opposite side but we wanted to isolate it from that existing business. We felt this was the best location at this time. Davis said hopefully once OSI gets the tanks cleaned out there and we decide what we are going to do with those, we can actually move the structure here relocate the facility back on the old oil recycle tanks.

Voss asked so intent to put the tanks where the current structure is and are we planning to put the tanks in the ground where the current tanks are? Davis said no, he would take the structure down. Voss said it is going to have to come down, because it is built over the tank and that is the only way you are going to get the tank out. Davis said we wouldn't propose to build it back. The way this new facility is, it doesn't require a cover. Voss said he is thinking from the aspects more of aesthetics. He said we don't obviously have it in front of us now, but last time they showed the tank, the sign and in the interim until the tank is taken care of he doesn't have a problem with this spot. Voss said it is good because it shows that we have the tank. He said but his only concern is we have this very bright sign in terms of coloring and lettering and everything, right out on the highway when it doesn't need to be. Voss said people will know where the recycling tank is at the recycling center, so why can't it be against the building, right next to the building, further off the road. Davis said we can either do that or we can ask them to change their sign. Voss said the point is the reason the building is there now is not because that is where we wanted it, that is where the old tank was. He said it was the existing tank when we tore the fire station down and we used the existing tank. Voss said that wouldn't have been our choice to put it there to start with. People know where the oil is going to be, it will be at the recycling center, it is just where at the recycling center.

Davis said it could be moved on down, He just didn't want to interfere with some of the activities there, some of the access to the building. He said if it is on the corner here, closest to the fire station, we still have some latitude and flexibility that it could be moved on down closer to the building. Voss said that is kind of his point, and it doesn't need to stand out, we will have advertising enough. He said but then it becomes kind of an aesthetics thing. Davis said he thinks anywhere between the existing shed and the corner would work fine. Voss said or over by the fence. Moegerle said as a person that leaves a lot of cardboard there, it will be very inconvenient for the people that back in to drop off a big load of cardboard. She said so that is also something to be considered when you put that in there. Davis said that would be a primary consideration, so we don't block access to anything. Voss asked can we cut a notch in that fence, so it is still visible from the road. So the tank is accessible and visible? So people know it is right there and it is not in the way? Voss said on some of these Saturday mornings it gets kind of busy there with the traffic of people trying to drop off their recycling. DeRoche asked do we have dimensions of how big this new tank is? Davis said we do but he doesn't have them with him. He said it is not a huge tank. DeRoche asked is it something that if we put somewhere we don't like it, we can just move it? Davis said we can move it when the tanks were pumped. DeRoche said we can test drive it then. Voss said they are made to be mobile, think all you need to move it is a forklift.

DeRoche said he thinks she was hitting more on the signs. He said he doesn't know if they are really as obnoxious as she said they were. DeRoche said he thinks it was more of a safety, look at what we are going to do. Voss said he asked the question on the sign. He said they wanted the city to know that is their standard sign. Voss said they are trying to. Lawrence said advertise. Voss said yes, because they want the oil. DeRoche said we have the other cities where they have them, so he could maybe drive there and take a picture of it? Davis said he will get him the closest location. Voss said she gave us a list. Davis said and we contacted the City of Plymouth and they were very well satisfied with their service. They didn't mention anything about the sign though. Davis said if we site this facility, it won't be a problem to relocate it. Voss said it was just for information anyway, right?

Vierling asked does council want to take action on the site plan? Voss said that was his question. Vierling said just as long as staff is sure you are okay with using this as the site,

even if it is temporary until you select a site. **DeRoche made a motion to approve this as a temporary Site Plan for Recycling Oil Tank Location until we find something more permanent. Moegerle seconded; all in favor, motion carries.**

Planning Comm. Minutes	Davis explained that the October 25, 2011 Planning Commission unapproved meeting minutes are provided for your review and information.
Park Comm. Minutes	Davis explained that the October 12, 2011 Park Commission unapproved meeting minutes are provided for your review and information.
Road Comm. Minutes	Davis explained that the October 11, 2011 Road Commission unapproved meeting minutes are provided for your review and information.
St. Croix Minimal Impact Design Standards Pilot Project – Pilot Community Application	<p>Davis explained that on March 19, 2010, the Washington Conservation District (WCD) was awarded a federal 319 grant for a Minimal Impact Designs Standards (MIDS) pilot project in the St. Croix Basin.</p> <p>This project is intended to be complementary to and will be carried out in parallel with the work to develop MIDS technical standards. The project will focus on implementation issues, including:</p> <ol style="list-style-type: none"> 1. Raising awareness on the part of local decision makers about the negative consequences of conventional development and the environmental and socio-economic benefits of low impact development-type management practices; 2. Supporting local and regional visioning and planning processes that proactively assess the impacts of alternative growth and development scenarios; and 3. Facilitating the development and adoption of local codes and ordinances that remove barriers to low impact development-type management practices and create incentives, as appropriate.

Up to three pilot communities will receive free education, training, and consulting services to update plans, ordinances, codes, and procedures to protect their local water resources and ultimately the St. Croix River.

East Bethel water resources final destination is either the St. Croix River (via Sunrise River Watershed) or the Rum River (Upper Rum River Watershed). Attachment #3 is a map of the basins within East Bethel.

Staff requests direction from City Council to proceed with an application for the St. Croix Minimal Impact Design Standards Pilot Project.

Moegerle made a motion to direct staff to proceed with an application for the St. Croix Minimal Impact Design Standards Pilot Project. Lawrence seconded. DeRoche asked what is the financial implication of this? Davis said there is no financial implication for the city. Moegerle said this is free. She said free education, consulting and training. It is just our time investment. Davis said what they are looking for is three types' cities to do this project in. He said one would be a developed city, one a rural area and one would be a city that is on the cusp of development which is what we are. Davis said so we fall within that category. This is something that was looked at a couple years ago. He said as a matter of fact there were a couple committees formed, a couple people met on this, but it never did go past the first committee meeting level. Davis said what this would do is it may give us some

information on low impact design and environmental concerns. He said it is no cost to the city and he thinks it would be a worthwhile project to pursue.

Voss said it is solicited as a grant, but it is not really a grant. Davis said it is not really a grant, it is training. What they do is assist us to learn about low impact design, go over codes and ordinances to address those situations. He said we are actually receiving no monies. Voss said so it is actually an application to be one of the cities to be considered. Lawrence said that is about it. Moegerle said last year on planning and zoning, MPCA came in and gave a presentation about this and it is really a great thing to do. She said the impact reduction they can do, is a real great thing. If we can get that information and incorporate it in our ordinances. She thinks it is excellent. DeRoche said so are we a research project. Is that what it is. Voss said it is an education, we went through this 3 or 4 years ago. Davis said to some degree that is true, they want to collect data in those three types of development situations. **All in favor, motion carries.**

Tim
Christensen –
IUP Renewal/
Home
Occupation –
1507 205th
Avenue NE

Davis explained that on November 17, 2010 City Council approved an IUP for an automotive repair business and vehicle dealer's license with conditions. Attachment #3 is the approved City Council minutes from the November 17 meeting. Attachment #2 is the executed IUP Agreement.

On October 24, 2011, staff conducted a site inspection of the property. The property is in conformance with the IUP. Additionally, staff has not received any complaints from neighboring properties regarding the home occupation.

At the November 2, 2011 City Council meeting, council tabled the IUP renewal request and directed Mr. Christensen to apply for an Anoka County Hazardous Waste Generators License and a MN Vehicle Dealer's License. Attachment #5 is a copy of the approved license from Anoka County Environmental Services.

As part of the dealer license submittal, staff must sign the license prior to Mr. Christensen's submittal to the state. The city must provide copies of executed permits, agreements, etc as part of the licensing process. At this time staff cannot sign the license because the proper permits are not in place for Mr. Christensen to operate from the property; therefore, he cannot submit a license to the state. Also, Mr. Christensen does not need the MN Vehicle Dealer's License to operate an automotive repair facility from the property. The license is strictly to sell more than five (5) vehicles from the property, in which he does not plan to sell vehicles at this time. Mr. Christensen is in the process of setting up and organizing the business; therefore he is in the process of completing the required license.

Staff recommends City Council approve the renewal of the IUP/Home Occupation – automotive repair business and a vehicle dealer's license for Mr. Christensen, for the property known as 1507 205th Avenue NE, PIN 17-33-23-43-0010 with the conditions as listed in your packet. If Mr. Christensen wishes to have a Vehicle Dealer's License he should apply for a Vehicle Dealer's License after approval of the IUP. Davis said there were things that were brought to our attention on this IUP that certain conditions were not met according to the guidelines last time. He said there is a question now is an IUP actually in existence for this property. Davis said that is a question to be answered by the city attorney. Staff does recommend the IUP for the auto repair business.

Vierling said for the benefit of the Council and the public, we reviewed the IUP that was

issued back a year ago. He said whether they were needed or not, is another issue. Vierling said but from a process point, Conditions 9 & 10 mandated that the Hazardous Waste Generator License be obtained and that the Minnesota Vehicle Dealer's License be obtained. He said Condition number 11 said that those conditions needed to be met and executed "no later than January 20, failure to do so resulted in the IUP becoming null and void." Vierling said he appreciates that those permits may or may not have been necessary but given the language of the permit, and the failure to provide those mandated permits rendered the permit null and void. He said from a process standpoint it appears to him that this should not be a renewal as much as it should be an application for a new IUP. Vierling said if that is the case you need to go through a public hearing process.

Moegerle asked so at this point you are recommending that this application be denied in order to get a new IUP application? Vierling said at this point the problem we have is from a process standpoint. If you try to issue an IUP without a public hearing it is a void IUP to begin with. He said you would basically set the permit holder up for a collateral attack from a neighbor down the road. Voss said but this is not a hearing, it is to determine whether the original IUP conditions were met. Vierling said this is not a revocation hearing. He said that is why he pointed out the conditions of the permit. Vierling said it basically did not have a provision that said if the conditions were not met the Council could review it or some language of that nature. He said it said if the permits were not physically presented to the City last year, the IUP was null and void. Vierling said this is unusual language, but the language that is in there nonetheless. He said because those two permits were not in the city file on January 20th, that rendered the IUP that had been issued null and void. Voss asked can a document do that? He said he thought an action had to do that. Vierling said it is a self-effectuating permit. He said he is suggesting unless those permits were in the city files on January 20, the application be for a new IUP not for a renewal because there is really nothing to renew. Voss asked if we move forward and renew the IUP, where does that sit for us? Vierling said if you establish that there is no IUP, if you accept that is true, any action by the Council to renew something that doesn't exist is ineffective anyway. He said so basically you haven't done the applicant any good. They have a permit that isn't effective and that may set them up for some type of process to challenge it.

Moegerle made a motion to deny the renewal of the IUP application for Tim Christensen for a Home Occupation at 1507 205th Avenue NE. DeRoche seconded.

Paul Christensen, representing my son, Timothy Christenson. He said Timothy has told me that the Hazardous Waste permit was in place before that date. Christensen said and was he told by the city administrator that the Vehicle Dealer's License need not be applied for at that time. He said this is the first we have heard of this issue. DeRoche said we have a copy of the permit in the file and it was April 6, 2011. He said that was for the Hazardous Waste Permit with Anoka County. Christensen said the property wasn't actually acquired until the end of March. Lawrence said he called the county and asked them about the permit and typically they issue the permits in April. He said and it can take up to a year, even though they have issued the permit and it is a legal permit. It can take up to a year to get the paperwork back to the recipient. Voss said the point is it was applied for by the date of the IUP. Lawrence said in the information he got back from the county. Voss said in a letter from County dated January 20 to Mr. Sell it says they have the application and they are asking the city if we have any issues. DeRoche said it says they are currently processing it. Voss said the application was in. Believe him, he works with agencies enough, permits don't fly out the window.

Moegerle said but the problem is the terms said it is null and void if this is not done. The terms. Voss said he understands but shame on us if we said they had to get a permit from an agency they had no control over. He said if this was an MPDS permit it would take two years. Moegerle said but you of all people are very good at changing those terms even when that was done. She said so there was an opportunity of staff and Council to change that language and they didn't. Voss said the intent was to get the Hazardous Waste license by a certain date and it was applied for by that date. Moegerle said the language of it says all terms must be satisfied by January 20th or it is null and void. She said all terms means "all terms." Moegerle said she appreciates the problems and she wants to help the resident. Moegerle said it puts us in a funny position because we want to help, but we want to do the right thing to correct this and so it doesn't happen again.

Christensen said he would like to be assured of your cooperation in correcting this problem, because he recognizes the problem. He said we also recognize that we spent \$400,000 on a piece of property that doesn't meet our expectations and this was a contingency of buying it. Moegerle said absolutely, she understands that. She gave him the minutes from the last Planning Commission and explained she is the liaison to that commission. Moegerle said she was not at that particular meeting but she understands that you need to read those carefully because car sales was a part of their topic at the last meeting. Christensen said he thinks sometimes there is a misconception that what is being considered is a car lot and that is not it at all. DeRoche said he drove by the property with the city administrator and it is pretty well back in. Lawrence said because of the old permit, and the way they wrote it, it really makes a muddle, a mess. He said because if we renew it, we are doing something that is not valid anyhow. That is the problem we have. Christensen said he understands the problem. He said he is simply asking for cooperation in solving this problem so we don't have a long term issue here. Vierling said he appreciates that everybody acted in good faith, but if you read the language of the minutes the motion actually included the conditions and that condition was actually read as part of the motion. He said he thinks it is a question of reapplying for an IUP at the present time and going through the process. Vierling said personally he doesn't know if there was a fee provided with the renewal, but there isn't really any renewal. So the fee should be refunded and the resident apply for a brand new IUP. Lawrence said so we can clean this up. He said we have to have that public hearing to make it legal. Voss said so we are not taking any action on the IUP as it sits. Vierling said there is a motion to deny. Voss said there is no IUP either. Vierling said the IUP is basically gone. He said the motion to deny is in effect a motion to declare it non-effectual.

Moegerle amended her motion to make it a motion to deny the application for renewal of an IUP. Voss said it is not an application for renewal, is it. Vierling said there is a paper application for renewal. Vierling said the motion should be to reject the application for renewal of IUP and direct the applicant to reapply.

Moegerle amended her motion to reject the application for renewal and to direct the applicant to reapply for an IUP. DeRoche seconded the amendment.

Paul Christensen said he would ask that no action be taken rather than having a denial on the record which many look to the population like there was some issue with it. He said we will withdraw our application. Vierling said if you withdraw your application then it is a moot issue. He said otherwise, right, wrong or indifferent the clock is ticking as far as the statute. Paul Christensen said as long as it is going to be rejected we might as well withdraw. Vierling said it has been withdrawn for the record.

Second Series,
An Ordinance
Amending
Chapter 14,
Buildings and
Building
Regulations

Regulations to eliminate redundancies and conflicts with other sections of the city ordinances. The revision also provides for appeal processes, permit fee refunds, and the addition of electrical inspections. The revisions to the ordinance are included in the attachments for your review. The City Attorney has reviewed the revisions and forwarded changes. Also attached is the latest redline change of the ordinance. There have also been grammatical and formatting changes in the ordinance since the redline version was completed. The final version was merged into a single ordinance.

Staff recommends adoption of Ordinance 32, Second Series Amending Chapter 14 of the Code of Ordinances for the City of East Bethel by Modifying Sections 14-19, 14-20, 14-21, 14-22 and 14-23

Moegerle made a motion to adopt Ordinance 32, Second Series, Amending Chapter 14 of the Code of Ordinances for the City of East Bethel by Modifying Sections 14-19, 14-20, 14-21, 14-22 and 14-23. Lawrence seconded. Moegerle said this will just make us more uniform with the state. Davis said and the other thing it will permit us to do is it will permit us to do the electrical inspections and collect the fees as the state was doing in the past. **All in favor, motion carries.**

Summary of
Ordinance 32,
Second Series
and Direction
to Publish

Davis explained that this Ordinance Amendment both amends and repeals Sections of Chapter 14 of the Code of Ordinances of the City of East Bethel, relating to building and electrical codes, plumbing codes, maintenance codes, hazardous and substandard buildings, construction standards, construction debris, and property maintenance codes.

Staff recommends approval of Summary of Ordinance 32, Second Series Chapter 14, Buildings and Building Regulation and direction to publish.

Lawrence made a motion to approve the Summary of Ordinance 32, Second Series, Chapter 14, Buildings and Building Regulations and direction to publish. Voss seconded; all in favor, motion carries.

JPA Between
the City of
East Bethel
and Anoka
County Hwy.
Dept. for the
Signalization
Project at
221st Ave. and
Hwy. 65

Davis explained that earlier this evening, representatives from the Anoka County Highway Department updated the Council on the 221st Avenue NE and Hwy 65 Signalization Project that is scheduled for 2012. The next step in the process for this project is to execute a Joint Powers Agreement (JPA) with Anoka County to identify construction maintenance and cost responsibilities between the two parties. The draft JPA is attached for your review. Due to some issues that still need to be worked out and discussed, staff recommends this item be tabled until these matters are resolved to the satisfaction of the City Council.

Voss made a motion to table the JPA Between the City of East Bethel and Anoka County Hwy. Dept. for the Signalization Project at 221st Ave. and Hwy. 65. Moegerle seconded; all in favor, motion carries.

Res. 2011-26
Amending Fee
Schedule

Davis explained that in order to charge for electrical inspections Council needs to amend the 2011 Fee Schedule to include rates for this service. Attached in your packet are the proposed rates.

Staff recommends approval of Resolution 2011-26 Modifying the Fee Schedule

Voss made a motion to adopt Resolution 2011-26 Modifying the Fee Schedule. Lawrence seconded. Moegerle asked how do these rates compare to surrounding cities.

Davis said they are equal or less than. We did a rate comparison and most of them we are less. Voss asked so come the end of 2011 when we do the fee schedule for 2012 this will be part of it then? Davis said that is correct. Voss said so there is no need to put this as also 2012. Davis said no. **All in favor, motion carries.**

Contract for Electrical Inspection Services

Davis explained that staff has revised Chapter 14 Buildings and Building Regulations to include permitting, and inspections of the State Electrical Code. State statute 326B.36 Subdivision 6 allows a political subdivision to provide for inspections within its jurisdiction.

Mr. Brian Nelson with Electrical Inspection Service currently conducts inspections in East Bethel for the state under contract. He currently complies with the license requirements regulated under State Statute 326B.33 subdivision 1.

Staff recommends approval.

Moegerle asked is there any requirement we put this out for competitive bid, or doesn't it reach the amount. Vierling said no, because this is a service.

Voss made a motion to approve contracting with Brian Nelson for Electrical Inspection Services. Lawrence seconded. DeRoche asked how did we come up with this gentlemen? Davis said he currently does the electrical inspection services in the East Bethel area under the state contract. He has a satisfactory reputation. He is an East Bethel resident and we feel like he would do a good job. DeRoche said if we are contracting him through the state, why we are taking him on as a subcontractor. Davis said what we would do is if we have an electrical inspection is we would notify Mr. Nelson and then Mr. Nelson does the electrical inspection. He said prior to this people notified the state and he was assigned the electrical inspections and the state collected the fees. Davis said the only difference now is we collect the fees and we pay Mr. Nelson from the proceeds. DeRoche asked and we collect 25% and they get 75%, is that pretty normal? Davis said yes. **All in favor, motion carries.**

Business Prospect

Davis explained staff presented a proposal for a business prospect to City Council at their October 19, 2011 meeting. This business prospect has indicated that they will make a decision on the location of their facility by the no later than the end of December 2011. In order to make that decision this business needs all the information regarding fees and costs for the East Bethel site to compare to a site in Blaine. The following fixed City fees would be charged to the prospect: Park Dedication Fees, Building Permit Fees and City SAC and WAC Fees.

It is projected that the facility that will be constructed by the prospect will be a service repair facility of 60,000 SF and initially employ approximately 60 employees. Based on this information and requirements listed in the MCES SAC Manual, this property would assigned 10 SAC (ERU's) units. The total cost for one (1) SAC (ERU) unit is \$17,000. The component costs for the individual SAC (ERU's) units for 2012 are as follows:

MCES SAC fee	\$3,400
City SAC & WAC fees	\$5,600
Lateral Benefit Assessment	<u>\$8,000</u>
Total per unit SAC(ERU) charge	\$17,000

It is recommended by staff that this facility be granted a reduction of one (1) City SAC and WAC unit thus bring the total to 10 SAC units due for payment to MCES and 9 SAC & WAC units payable to the City of East Bethel upon issuance of a building permit. The costs

for the SAC and WAC units would be as follows:

MCES SAC units, 10@ \$3,400	\$34,000
City SAC and WAC units, 9@ \$5,600	<u>\$50,400</u>
Total SAC and WAC fees due upon issuance of a building permit	\$84,400

The other component of the City utility cost (SAC/ERU) is the lateral benefit assessment. Each SAC(ERU) unit is also charged \$8,000 per SAC unit for this cost. The cost to the prospect for this charge would be:

Lateral Benefit Assessment Charge, 9@ \$8,000	\$72,000
---	----------

Part of the Lateral Benefit Assessment Charge (LBAC) covers street restoration. The proposal the developer is presenting would require no street restoration as there is currently no paved or developed City street fronting the parcel to be developed for the prospect. The street would be built as part of the development plan to access the site and at the developer's expense. The street restoration charge is 27% of the LBAC (total construction cost less the sewer and water trunk main costs of \$2,879,461/\$769,969 of street restoration costs). Therefore since no street restoration costs will be required for this portion of the project, it is proposed that the developer receive a credit of 27% of his total LBAC which would amount to:

Credit for deduct of street restoration costs from the LBAC	<\$19,521>
(<u>\$72,000 X 0.27 = \$19,521</u>)	

The total City Fees for the developer would be as follows:

Park Dedication Fees (as described above)	\$ 1,947.40
MCES SAC units, 10@ \$3,400	\$34,000.00
City SAC and WAC units, 9@ \$5,600	\$50,400.00
Lateral Benefit Assessment Charge, 9@ \$8,000	\$72,000.00
Street restoration cost credit	<u><\$19,521></u>
Total City Fees Due (NIC building permit fees)	\$138,826.40

It is also recommended by staff that the type of business proposed by the prospect be permitted and is compatible under the current B-3 Zoning that affects this area.

The developer will have approximately 10 acres remaining for future development. It is recommended by staff that SAC assignments for future developments occurring on this property be completed based on the use of the property according to the MCES SAC Manual and fees for these charges be collected at the issuance of building permits for these developments.

Physical impact is as follows:

1. Based on a minimum valuation of \$2,000,000 this business would pay \$17,000 annually in taxes to the city. The current tax liability on this site is approximately \$200 to the City;
2. This project would provide 10 MCES ERU's that would be approximately 13% of 2013 minimum goal;
3. This project would provide an additional customer that would generate

approximately 100,000 gallons of effluent and water use for our new system which is challenged for customers. The addition of new connections is critical to meet our minimum flow requirements and avoid up to a \$150 surcharge on customers if minimum flow requirements cannot be attained;

4. This project would have a multiplier effect on local business with the addition of a new employee base that could access services in the City; and;
5. The benefits to the City are in excess of the costs the City will forgo in granting SAC relief to the developer.

Staff recommends City Council consider granting the following to the developer as means to be competitive with the City of Blaine in the recruiting of a new business to East Bethel that will employ 60-75 persons and add a minimum of \$2,000,000 to the tax base:

1. Reduce the current projected SAC(ERU) assignment by 1;
2. Credit \$19,521 to the developer on his lateral benefit assessment;
3. Finance the balance of the lateral benefit assessment over a term of 10 to 20 years at an interest rate of 4.5 to 5.5 % through an assessment on the property with the terms and interest rates to be determined by City Council and payment commencing in 2013;
4. Consider the use of property as permissible in the B-3 Zone;
5. Require no payment of ERU charges on the remaining undeveloped portion of this parcel until such time that it is subdivided and/or developed;
6. Require that Ulysses Street, while built to City standards, only be extended to access the proposed site and the undeveloped lot north of Village Bank at the developers expense; and;
7. This offer shall expire in 90 days unless otherwise renewed by City Council.

Staff feels that these are incentives that need to be offered to attract this business to East Bethel. Voss asked on the page where you calculated your credit for street restoration, in parentheses below you are taking 13% x 7300. Davis said he sent an e-mail with the corrected copy out of that this morning. He said it should have been 27%. Voss said so what you have in the column \$19,521 is correct. Davis said yes. Voss asked so your goal for credits on page three is actually \$19,521? Davis said that is correct. DeRoche asked is this setting precedent. Davis said it most certainly is. And it is one that we are going to have to utilize on most, if not all businesses that we try to attract to East Bethel. He said however this precedent from a financial impact is really very minor. We will recover essentially all of it. Voss asked on the last page is the proposed site, so this is not on remaining property, but on remaining of this proposed site? Davis said that is correct. Voss said after it has been subdivided. Davis said that is correct. He said there is 15 acres. They are proposing to use approximately 5 acres. Voss said so they will be platting it. Davis said it is an outlot now. Voss said they will have to plat and they will carve another outlot out of that. Davis said that is correct.

Voss said so this is setting another precedent that he thinks is more problematic. He said on that drawing, if he understands it right. Voss said there is 120 feet of road frontage and the minimum standard is 200 feet. He said we haven't granted a variance like that in 10 years. Voss asked is there an issue with making that so it has 200 feet of road frontage? Davis said he thinks that could be worked out. The line on here is not precise. Davis said Jochum has indicated that there will be a pond requirement on the property. He said so this could be shifted to the south portion of the property, that would give them more road frontage, and if that is the case we could make that a requirement. Voss said he understands and likes the idea of bringing the business in, he thinks it would be a good business.

Voss said the discussions we have had on the ERU reduction policy were based on existing businesses and he thought we agreed at least in principle on allowing them only for existing businesses. He said and now here we are doing this for a new business. Davis said he thinks you can make a case for doing this for a new business because this is part of the assessed area. He said this whole 15 acre parcel got a preliminary assessment of 45 ERUs. Davis said and that is based on 800 gallons per acre. DeRoche asked if staff had the original ERU breakdown that Bolton and Menk did for all the properties? He said his concern with this is we don't have an ERU policy. This basically sets it up. Voss said he doesn't think it sets it up because there is no basis behind it. DeRoche said if we did this for them, then every existing business is going to expect at least one ERU reduction and at \$17,000 you get another reduction. Voss said he would rather have that incentive be in something to do with roads and parks. He said we are trying to establish an ERU reduction policy for existing businesses. Voss said the other side of this is, if we are willing to drop this for new business, then we should be willing to drop even more for existing businesses then. He said he is not happy with the ERU, does that \$17,000 make or break the deal.

Davis said he can't say if it does or doesn't. He said all he has been told that we need to do some things to make it more competitive with the Blaine site. Davis said this was generally discussed with the developer and he seemed to think he could take this to the business and may be successful with this package right here. Moegerle said she attended that meeting with the developer as an EDA person. She said and it was very clear that the SAC and WAC charges are substantially less in Blaine, something like \$14,500 an ERU. The business would like to be in East Bethel for non-financial reasons, emotional reasons there, but ultimately it sounds like the decision will be a financial one. She said to her, she is not thrilled, she would like the payback to be over 10 years at the most, and other things, but the reality is beggars can't be choosers. Voss said he is not uncomfortable with the amount, he is uncomfortable with the means. It is always about the means and how you do things. He said if we are talking about \$17,000 why not have it as a relocation cost from EDA. This is not an existing business, it is a new business. Moegerle said the EDA doesn't have any money. Voss said that is what we are supposed to be doing with our EDA. He said we can tell them we can offset some of your relocation costs. Voss said if we reduce the ERUs here, we have to do it for everyone.

Moegerle asked the city attorney, "Is that a valid argument?" She asked is that your experience? If you do it for one, you do it for all? Vierling said you can certainly expect that once you have done it, it will be cited by the people that come through the door. He said and he agrees it is not so much what you do but how you get there. Vierling said we have suggested and he realizes it is not popular with everyone, that cities consider tax abatement. He said you preserve your ERUs, you preserve your fee structure and you just go to an abatement of tax for a period of years under the statute. Vierling said that might be far more preferable than to whittle away at user fees in terms of other existing businesses and new businesses coming in. He said abatement works much the same way as a tax increment. Vierling said it is a single application at reduction of relocating of by abating their taxes over a number of years to their city. Voss asked and you don't have to go to the state to do this. Vierling said you don't. Voss said and we can do it on a per parcel basis. Vierling said and the best part of this is you don't have to advance any funds. He said they are just getting rebated their taxes from the city for a number of years, the city portion of the taxes. Voss said that would be his suggestion. He said he would tell the developer we are uncomfortable with the ERU reduction. He asked Davis if he has presented these numbers to the business owner/developer. Davis said we have talked about these numbers. Voss said but they are

only going to look at the bottom line.

Moegerle said we could do a not to exceed \$140,000, not to include building permit fees. How you get there would be determined. Davis said he would like to have something to bring them by tomorrow. Voss said you are asking us to allow this as permissible in B-3. Davis said he thinks there were some questions about whether it was permitted in B-3 last time. He said he thinks you could make an argument for it. Davis said with what is there now, he thinks it certainly is. He thinks there are only a couple parcels attractive to commercial development. Davis said he regards this as service area. Voss asked is the whole area set up as B-3. Davis said yes. He said he will be looking for this in our comp plan update, look to have some other uses permitted. DeRoche asked what other benefits will you be looking for on this other 10 acres. Davis said that will be determined on what will come in for there. The city incentives to these people will be determined on what they can bring to the city. DeRoche asked if he moves his business, is he bringing his current employees? Voss said his is a light industrial business and in the past we have talked about this area as being more of a service and retail area, he is not saying this can't fit in the back there. DeRoche said and that is the City Center area. It is going to be the downtown of East Bethel.

Davis said if you want to look at tax abatement we can do that. He said if you are uncomfortable with an ERU reduction, he appreciates that. Davis said if you are comfortable saying we can grant this up to \$140,000 and do tax abatement and lateral benefit that is fine. DeRoche said to be honest with you he is. Davis said this is information they requested and it would be very advantageous if we could provide it to them by tomorrow. DeRoche asked how do we always get in these situations where it has to be done by tomorrow? He said he understands, but if you aren't involved in the meetings and you don't have the information, it is hard to do. He has never been one to flip a switch and make a decision. DeRoche said he knows what his feelings are about ERUs and he doesn't think they are going to change. He said that seems to be we have to have so many ERUs to make the bonds. Davis said we have some flexibility with these initial ERUs. He said we provided you with this information at the work meeting. Davis said we need to take a strong look at this with existing businesses so we can give them some reductions. He said where we need to look at this is when they compound.

Lawrence said he thinks the tax abatement looks favorable to him because that keeps us from getting too muddled up in the ERU Reduction Policy. Moegerle said she thinks if we say "the incentives are capped at \$140,000" that would be good, with financing limited up to 10 years. Davis said that is Council's prerogative to set those terms, he did 20 years because of the bond terms. Voss said his big hang-up is how this business fits within this development area, if they are on the level of architectural standards of the bank great. The bank was setting the seed for the architectural standards. Davis said from a commercial standpoint, the lot at 187th and Ulysses will probably be developed commercial. Lawrence said south of that we can zone that just for commercial. Davis said he doesn't envision much retail going in this spot, because from a traffic standpoint it is on the wrong side of the highway. Voss said he would like to see a plan for the entire parcel, that would make him feel more comfortable. Moegerle said one thing we know is, if it is going beside Village Bank they have an incentive to look nice. She said but there is incentive there. Moegerle said there is some visibility from Hwy. 65 and if it is architectural maybe that is what that MIDS helps us do. She said she thinks we have to give this a shot. Moegerle said she thinks we say the incentives are capped at \$140,000.

Voss said he think the message back is the dollar amount is fine, but we need to know a little bit more about the intention for the whole property. He said on how this building is going to look. Voss said they have to have some kind of idea because they have to know what their investment is going to be. He said they must have some kind of idea what kind of building they are going to build and if they can share that. Voss said if they can get over those hurdles and we get over the financial hurdles, he thinks it would be fine.

Moegerle asked if Council could meet on this before the holiday? She said if he wants this tomorrow, and you give him this news, how soon is he going to want to hear back from you, to get back for more direction, if he wants that. Davis said he thinks we are going to want to do something as soon as possible, probably one day next week. He said in the meantime we can ask him to supply some more information on the items we have discussed here. Perhaps his plans for the rest of the parcel. Davis said he doesn't know that he has a design for the building yet. He hasn't shown us them so he suspects he doesn't, but he will inquire about that. He said if he can go to him with this and say if you can satisfy some of these items with Council then we anticipate that your fees will be capped at this much and then we will work out how we get to this figure. Moegerle said she thinks we should indicate that we can meet on this date and time with him to show our good faith also, so what works with everyone's schedules. Voss said his concern is dollars and think there is consensus on the dollars. He said and our concern is how this fits within the property and that is up to them to show how it sits on this property. Voss said we don't even know where on this lot it is going. He said they haven't gone this far without doing some preliminary drawings. Moegerle asked can we schedule the meeting for Tuesday at 6:30 p.m? Davis said this would be a special meeting so we can take action on it. Voss said we can't take any action on this before it goes to Planning Commission. Davis said we can guarantee numbers, but we wouldn't be approving the design.

Council consensus was to schedule a special meeting for Tuesday, November 22, 2011 at 6:30 p.m. to discuss any issues with the developer and have them bring in some sketches of what they are planning to do on the property so Council can get a better idea. Invite the developer so if there are questions they can be asked.

Council
Member
Report –
DeRoche

DeRoche said he would like to see because personally he doesn't know what goes on during the week here. He said he would like a couple one liners this is what we re doing, this is the direction we are going. DeRoche said what are they doing, he doesn't know what the fire department is doing. Moegerle said you should shadow staff. DeRoche said he would rather not have to do that. He said he sees the building official's report, the are really vague and he would like to see what people are complaining about. Is it because animals are running around, people are having loud parties, what is going on in the city. DeRoche said we don't have any real idea other then when we go out and talk to people we don't have any idea. Davis said as far as the building official's report he told him to prepare a brief report, if you want more information he can get it to you. DeRoche said he talks to people in the north end, what is going on, what do you think. He talks to people in his area and asks the same thing. DeRoche said to him it is our job to find out what the people want, and then we try to figure out if it can be done or not and without knowing what is going on here, what do we do. He would like to have answers when people ask me, rather than "I don't know."

DeRoche said if there were more meetings with the fire department, when it went to quarterly it doesn't make sense. He said you go there, you listen to them talk and then you go home. DeRoche said there is no continuity, no continuity with the training there. He said he doesn't even know the status of five fire fighters we were going to bring on. Davis said

they are waiting for the test results to come back. DeRoche asked how did they took the state agility tests. Davis said he is not sure, but there are some other tests they are waiting on some scores to come back on.

DeRoche said thought it was lame on the news where a couple of hunters shot some care dogs. He said a lady had two beautiful German shepherds she was training to work with people she went outside and a minute later she heard about 5 shots. DeRoche said she approached the hunters and talked to them and they just laughed at her. He said it is a sad situation. DeRoche said he did a tour with the city administrator and they went and looked at some things including the water tower. He said that is coming up real good.

Council
Member
Report -

Moegerle said one of the things staff did was talk to Ann Gemmal from the Law School she is taking a land use course there and she interviewed Jack and I and Stephanie. She said she had to ask her what would it take for you to move out here and basically her answer was transportation. Moegerle said she went to a meeting of the Sandhill Crane Wildlife Management Group. She said the state was there, Anoka County, DNR, the MPCA and it was very interesting. Moegerle said they haven't met for 2 ½ years. One of the highlights was taking a tour of the landfill site and going to the top of the hill and you could see all of those lakes out there. She said it is too bad that site cannot be used for a sledding hill because that would be fabulous. Moegerle said we have had several meetings about EDA and business prospects and we are starting make more progress to get names of businesses that we would like to see expand here. She said the thing with MidContinent just enforces that we need to have our e-mail with Roseville here, because if those providers go down then we would lose all those e-mails that we get from Jack that keep us busy. Moegerle said Vierling had said he would give us a comparison on flat fees and hourly. Vierliing said it is very close but you are money ahead with the hourly.

Council
Member
Report -

Voss asked the Tierney project wasn't that supposed to start by now. Jochum said they are doing it tomorrow. He said it was delayed. Davis said and Jochum and I are meeting with Mr. Tierney tomorrow at East Front Blvd. Voss asked the ERU Policy, where did we leave it and where are we going with it. Davis said we left it with going back to the EDA, but we kicked around some stuff and decided the EDA doesn't have any money so we are going to have to have another work session. Voss said they don't have any money right now but they could. Davis said that doesn't totally take them out of the equation. He said unfortunately from an EDA standpoint, they won't have any money within the next year when we need to address this for the existing businesses. Davis said but he thinks it is something hopefully they will be able to participate in sometime in the future to offer incentives for new and/or existing businesses.

Council
Member
Report -

Lawrence said he has a couple things. He said there is a Local Government Officials meeting coming up that should be interesting on November 30th. Lawrence said and he is still getting complaints, we just can't get those triplicates out for our pumpers. Moegerle said she doesn't understand that. Lawrence said whenever they apply for their septic to be pumped, everybody around us does triplicate paperwork and we do a single copy and it bogs the work down a bit. Moegerle said that reminds me about the GeoCaching, do they have that down yet. Davis said that is something that Park Commission is working on. He said he thinks their goal is by springtime.

Closed Session
– GRE
Lawsuit

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

DeRoche made a motion to go into closed session to discuss the GRE Lawsuit. Moegerle seconded; 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. Council took no specific motions during the course of the meeting, but did consult with counsel regarding strategy and concept of settlement. The closed session was attended by all members of the City Council with exception of Council Member Boyer who was absent, Jack Davis, Wendy Warren, Jim Stommen, myself and no others.

Adjourn **Lawrence made a motion to adjourn at 11:50 PM. Moegerle seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk