

# City of East Bethel

## City Council Agenda

Regular Council Meeting – 7:30 p.m.

Date: June 20, 2012



- |              | <b>Item</b> |  |
|--------------|-------------|--|
| 7:30 PM      | <b>1.0</b>  | <b>Call to Order</b>   |
| 7:31 PM      | <b>2.0</b>  | <b>Pledge of Allegiance</b>  |
| 7:32 PM      | <b>3.0</b>  | <b>Adopt Agenda</b>  |
| 7:33 PM      | <b>4.0</b>  | <b>Public Hearing</b>  |
| Page 1-2     |             | <b>Storm Water Pollution Prevention Program</b>  |
| 7:40 PM      | <b>5.0</b>  | <b>Report</b>  |
| Page 3-5     |             | A. Sheriff's Report  |
| 7:50 PM      | <b>6.0</b>  | <b>Public Forum</b>  |
| 8:05 PM      | <b>7.0</b>  | <b>Consent Agenda</b>  |
|              |             | <i>Any item on the consent agenda may be removed for consideration by request of any one Council Member and put on the regular agenda for discussion and consideration</i> |
| Page 9-11    | A.          | Approve Bills  |
| Page 12-30   | B.          | Meeting Minutes, June 6, 2012, Regular Meeting   |
| Page 31-34   | C.          | Meeting Minutes, May 31, 2012, Special Meeting   |
| Page 35-36   | D.          | Assessing Services RFP   |
| Page 37-49   | E.          | Insurance Agent Services RFP   |
| Page 50-51   | F.          | Replacement of Ice Arena Doors   |
|              | G.          | Approve Advertisement of Bids for Coon Lake Beach Road Resurfacing   |
| Page 52      | H.          | Resolution 2012-31 Accepting Donation from Hakanson Anderson   |
|              | I.          | Approve Liquor License for 2012-2013   |
| Page 53-55   | J.          | Approve Recording Secretary Contract   |
|              | K.          | Approve Hire of Cable Technician   |
|              |             | <b>New Business</b>  |
|              | <b>8.0</b>  | <b>Commission, Association and Task Force Reports</b>  |
| 8:08 PM      | A.          | Economic Development Authority   |
| Page 56-80   | B.          | Planning Commission  |
| Page 81-133  | 1.          | Meeting Minutes, May 8, 2012   |
|              | 2.          | Lowell Friday – Interim Use Permit (IUP) Renewal for the Keeping of Horses - 18215 Greenbrook Drive NE   |
| 8:30 PM      | C.          | Park Commission  |
| Page 134-139 | 1.          | Meeting Minutes, May 9, 2012   |
| 8:32 PM      | D.          | Road Commission  |
| Page 140-143 | 1.          | Meeting Minutes, May 8, 2012   |
|              | <b>9.0</b>  | <b>Department Reports</b>  |

- A. Community Development
- B. Engineer
- C. Attorney
- D. Finance
- 8:34 PM E. Public Works
  - 1. Presentation on Geocaching
- Page 144-147
- 8:50 PM F. Fire Department
  - 1. Monthly Report
- Page 148-152
- 8:55 PM G. City Administrator
  - 1. Ordinance 39, Second Series, Amending Chapter 1, General Provisions
- Page 153-154

**10.0 Other**

- 8:55 PM A. Council Reports
- 9:00 PM B. Other

9:05 PM **11.0 Adjourn**



# City of East Bethel City Council Agenda Information

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**Date:**

June 20, 2012

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**Agenda Item Number:**

Item 4.0

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**Agenda Item:**

Storm Water Pollution Prevention Program (SWPPP) Public Hearing

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**Requested Action:**

Conduct Annual Meeting

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**Background Information:**

The City of East Bethel has prepared a Storm Water Pollution Prevention Program (SWPPP) in accordance with the National Pollutant Discharge Elimination Program General Permit, which authorizes Municipal Separate Storm Sewer System operators to discharge storm water. The goal of the SWPPP, when implemented, is to reduce the discharge of pollutants into receiving waters to the Maximum Extent Practicable. The Minnesota Pollution Control Agency issued coverage under the National Pollutant Discharge Elimination System General Permit for Municipal Separate Storm Sewer Systems to the City of East Bethel on January 9, 2008.

The City’s storm water program addresses the six minimum control measures and the associated Best Management Practices (BMPs) as required by the General Permit. The six minimum control measures required in the SWPPP are as follows:

1. Public Education and Outreach on Storm Water Impacts
2. Public Participation/Involvement
3. Illicit Discharge Detection and Elimination
4. Construction Site Storm Water Runoff Control
5. Post-Construction Storm Water Management in New Development and Redevelopment
6. Pollution Prevention/Good Housekeeping for Municipal Operations.

City staff continues to develop implementation strategies as outlined in the SWPPP. The following Best Management Practices have been implemented over the past two years:

1. All City Streets are swept once annually with the lake areas having higher priority.
2. City public works staff inspects approximately 20 percent of the City’s storm water basins each year.
3. City Programs such as the clean-up day are posted on the City website.
4. The annual meeting was held in June 2011.
5. Educational pamphlets have been developed for distribution to City residents.

6. Reporting forms have been developed for illicit discharge inspections, non-compliance storm water complaints, structural pollution control device inspections and storm water pond inspections.
7. Staff continues to develop implementation programs.

One of the requirements of minimum control measure 2 is that the City must hold an annual meeting before June 30<sup>th</sup> of each year. At the annual meeting the City will consider public input, both oral and written, regarding the adequacy of the SWPPP. Based on the public input, the City can modify the SWPPP as the City determines to be appropriate. As required, the meeting notice was advertised in the Anoka Union. Copies of the City's SWPPP are available for public review at City Hall and on the City website.

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**Fiscal Impact:**

None at this time.

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**Recommendation(s):**

Staff recommends that the City Council conducts the annual meeting to consider public input on the City's Storm Water Pollution Prevention Program.

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**City Council Action:**

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

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Vote Yes: \_\_\_\_\_

Vote No: \_\_\_\_\_

No Action Required: \_\_\_\_\_



# City of East Bethel City Council Agenda Information

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**Date:**

June 20, 2012

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**Agenda Item Number:**

Item 5.0 A

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**Agenda Item:**

Monthly Sheriff's Report

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**Requested Action:**

Information Only

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**Background Information:**

Lt. Orlando will review the monthly statistics and report on activities for the month of May, 2012.

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**Fiscal Impact:**

None

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**Recommendation(s):**

Information Only

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**City Council Action**

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Vote Yes: \_\_\_\_\_

Vote No: \_\_\_\_\_

No Action Required:  X

**CITY OF EAST BETHEL – MAY 2012**

<b>ITEM</b>	<b>MAY</b>	<b>APRIL</b>	<b>YTD 2012</b>	<b>MAY YTD 2011</b>
Radio Calls	464	404	1,905	1,846
<b>Incident Reports</b>	344	366	1,688	1,579
Burglaries	7	6	21	15
Thefts	28	23	91	66
Crim.Sex Cond.	0	0	0	4
Assault	6	2	10	11
Dam to Prop.	5	11	31	24
Harr. Comm.	7	3	22	14
Felony Arrests	0	0	8	18
Gross Mis.	0	2	3	2
Misd. Arrests	10	40 **	78	30
DUI Arrests	3	2	18	18
Domestic Arr.	2	2	12	13
Warrant Arr.	4	2	31	22
Traffic Arr.	69	81	405	330

\* Total Radio Calls for the month and YTD are the sum from City of East Bethel and Community Service Officer pages.

\*\* The unusual high Misd. Arrests due to a single case where 3 adults and 26 juveniles were arrested for Criminal Obstructing Legal Process.

**CITY OF EAST BETHEL – MAY 2012  
COMMUNITY SERVICE OFFICERS**

<b>ITEM</b>	<b>MAY</b>	<b>APRIL</b>	<b>YTD 2012</b>	<b>MAY YTD 2011</b>
Radio Calls	38	8	98	56
<b>Incident Reports</b>	41	11	108	61
Accident Assist	2	0	8	8
Veh. Lock Out	3	2	13	48
Extra Patrol	20	32	197	154
House Check	0	0	0	11
Bus. Check	1	0	13	108
Animal Compl.	19	3	38	22
Traffic Assist	6	3	23	18
Aids: Agency	30	46	211	273
Aids: Public	28	5	69	157
Paper Service	1	1	31	30
Inspections	0	0	0	0
Ordinance Viol.	5	0	11	0



**Payments for Council Approval June 20, 2012**

Bills to be Approved for Payment	\$67,470.91
Electronic Payroll Payments	\$23,982.37
Payroll City Council - June 15, 2012	\$1,636.07
Payroll Fire Dept - June 15, 2012	\$9,117.59
Payroll City Staff - June 7, 2012	\$32,305.70
<b>Total to be Approved for Payment</b>	<b>\$134,512.64</b>

# City of East Bethel

June 20, 2012

## Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Arena Operations	Bldgs/Facilities Repair/Maint	052912	Wright-Hennepin Coop Electric	615	49851	21.32
Arena Operations	Professional Services Fees	46	Gibson's Management Company	615	49851	5,445.70
Arena Operations	Telephone	060112	CenturyLink	615	49851	111.27
Central Services/Supplies	Information Systems	216113	City of Roseville	101	48150	2,140.16
Central Services/Supplies	Office Supplies	610662414001	Office Depot	101	48150	(0.22)
Central Services/Supplies	Office Supplies	611892303001	Office Depot	101	48150	37.21
Central Services/Supplies	Postage/Delivery	4849-01	Do-Good.Biz	101	48150	634.00
Central Services/Supplies	Postage/Delivery	060112	Reserve Account	101	48150	1,000.00
Central Services/Supplies	Telephone	060112	CenturyLink	101	48150	233.08
Civic Events	Professional Services Fees	RG 1024528	Swank Motion Pictures,Inc.	227	45311	343.87
Elections	Office Supplies	61558509001	Office Depot	101	41410	7.58
Elections	Repairs/Maint Machinery/Equip	033-801033	Batteries Plus #033	101	41410	27.68
Elections	Small Tools and Minor Equip	61558509001	Office Depot	101	41410	98.58
Finance	Auditing and Acct g Services	296122	Abdo, Eick & Meyers, LLP	101	41520	3,566.00
Fire Department	Bldgs/Facilities Repair/Maint	052912	Wright-Hennepin Coop Electric	101	42210	5.32
Fire Department	Disability Insurance	278099	Bearence Management Group	101	42210	890.00
Fire Department	Personnel/Labor Relations	650467	LexisNexis Occ Health Solution	101	42210	305.85
Fire Department	Telephone	060112	CenturyLink	101	42210	61.33
Fire Department	Telephone	060112	CenturyLink	101	42210	171.12
Fire Department	Telephone	060112	CenturyLink	101	42210	57.02
Fire Department	Telephone	060112	CenturyLink	101	42210	114.65
General Govt Buildings/Plant	Bldg/Facility Repair Supplies	16429	Menards - Forest Lake	101	41940	275.13
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	10047	Betz Mechanical, Inc.	101	41940	475.61
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	470832412	Cintas Corporation #470	101	41940	21.78
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	14841	GHP Enterprises, Inc.	101	41940	368.72
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	410183	Nardini	101	41940	717.40
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	455408-05-12	Premium Waters, Inc.	101	41940	25.61
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	120060	Robert B. Hill Company	101	41940	19.24
General Govt Buildings/Plant	General Operating Supplies	45680	Menards Cambridge	101	41940	18.50
Legal	Legal Fees	120126	Eckberg, Lammers, Briggs,	101	41610	5,649.26
Legal	Legal Fees	47540	State of Minnesota	101	41610	990.00
Mayor/City Council	Professional Services Fees	217952	Municipal Code Corp.	101	41110	550.00
Park Capital Projects	Bldg/Facility Repair Supplies	41012	Clearwater Recreation	407	40700	5,468.59
Park Capital Projects	Park/Landscaping Materials	1171228	Cemstone Products Company	407	40700	503.82
Park Maintenance	Bldg/Facility Repair Supplies	61553072	John Deere Landscapes	101	43201	34.29
Park Maintenance	Bldg/Facility Repair Supplies	61567562	John Deere Landscapes	101	43201	41.39
Park Maintenance	Clothing & Personal Equipment	470829154	Cintas Corporation #470	101	43201	48.03
Park Maintenance	Clothing & Personal Equipment	470832413	Cintas Corporation #470	101	43201	48.03
Park Maintenance	Equipment Parts	03 3063812	Isanti County Equipment	101	43201	97.98
Park Maintenance	Equipment Parts	1539-140654	O'Reilly Auto Stores Inc.	101	43201	8.51
Park Maintenance	Equipment Parts	J161267	Turfwerks	101	43201	126.78
Park Maintenance	General Operating Supplies	365811	Ham Lake Hardware	101	43201	17.09
Park Maintenance	Other Equipment Rentals	53524	Jimmy's Johnnys, Inc.	101	43201	812.56
Park Maintenance	Park/Landscaping Materials	45205	Hoffman Bros. Sod, Inc	101	43201	39.54
Park Maintenance	Park/Landscaping Materials	16429	Menards - Forest Lake	101	43201	142.40
Park Maintenance	Park/Landscaping Materials	49865	Menards Cambridge	101	43201	143.64
Payroll	Union Dues	06 2012	MN Teamsters No. 320	101		601.00

# City of East Bethel

June 20, 2012

## Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Planning and Zoning	Legal Fees	120126	Eckberg, Lammers, Briggs,	938		242.00
Planning and Zoning	Legal Fees	120126	Eckberg, Lammers, Briggs,	937		88.00
Planning and Zoning	Legal Fees	120126	Eckberg, Lammers, Briggs,	934		869.00
Planning and Zoning	Legal Fees	120126	Eckberg, Lammers, Briggs,	937		165.00
Police	Professional Services Fees	41845	Gopher State One-Call	101	42110	4.35
Police	Professional Services Fees	05 2012	Gratitude Farms	101	42110	701.53
Recycling Operations	Other Equipment Rentals	53524	Jimmy's Johnnys, Inc.	226	43235	55.58
Recycling Operations	Professional Services Fees	06 2012	Cedar East Bethel Lions	226	43235	1,000.00
Sewer Operations	Bldgs/Facilities Repair/Maint	RR2267	ESS Brothers & Sons	602	49451	315.39
Sewer Operations	Bldgs/Facilities Repair/Maint	052912	Wright-Hennepin Coop Electric	602	49451	24.53
Sewer Operations	Professional Services Fees	80873	Utility Consultants, Inc.	602	49451	492.50
Street Maintenance	Bldgs/Facilities Repair/Maint	470829154	Cintas Corporation #470	101	43220	26.49
Street Maintenance	Bldgs/Facilities Repair/Maint	470832413	Cintas Corporation #470	101	43220	26.49
Street Maintenance	Bldgs/Facilities Repair/Maint	455408-05-12	Premium Waters, Inc.	101	43220	25.61
Street Maintenance	Bldgs/Facilities Repair/Maint	052912	Wright-Hennepin Coop Electric	101	43220	21.29
Street Maintenance	Clothing & Personal Equipment	470829154	Cintas Corporation #470	101	43220	47.45
Street Maintenance	Clothing & Personal Equipment	470832413	Cintas Corporation #470	101	43220	47.45
Street Maintenance	Equipment Parts	179351-IN	Zahl Petroleum Maintenance Co.	101	43220	39.78
Street Maintenance	General Operating Supplies	61383172	John Deere Landscapes	101	43220	49.22
Street Maintenance	Repairs/Maint Machinery/Equip	29321	Ancom Communications	101	43220	771.85
Street Maintenance	Shop Supplies	1539-148400	O'Reilly Auto Stores Inc.	101	43220	87.19
Street Maintenance	Street Maint Materials	7142	Commercial Asphalt Co.	101	43220	128.01
Street Maintenance	Telephone	060112	CenturyLink	101	43220	68.17
Water Utility Capital Projects	Professional Services Fees	7200	Northern Technologies, Inc	433	49405	1,265.00
Water Utility Operations	Bldgs/Facilities Repair/Maint	052912	Wright-Hennepin Coop Electric	601	49401	26.67
Water Utility Operations	Telephone	060112	CenturyLink	601	49401	108.56
	Petroleum Tax	L1881380096	Minnesota Revenue	101		1,197.88
	Workers Comp Premium	22833	League of MN Cities Ins Trust	101		27,059.50
						<b>\$67,470.91</b>
<b>Electronic Payments</b>						
Payroll	PERA					\$5,331.43
Payroll	Federal Withholding					\$5,000.92
Payroll	Medicare Withholding					\$1,696.88
Payroll	FICA Tax Withholding					\$6,085.55
Payroll	State Withholding					\$2,023.45
Payroll	MSRS					\$3,844.14
						<b>\$23,982.37</b>



# City of East Bethel City Council Agenda Information

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**Date:**

June 6, 2012

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**Agenda Item Number:**

Item 6.0 A-G

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**Agenda Item:**

Consent Agenda

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**Requested Action:**

Consider approving Consent Agenda as presented

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**Background Information:**

Item A

Bills/Claims

Item B

Meeting Minutes, June 6, 2012 Regular City Council

Meeting minutes from the June 6, 2012 Regular City Council Meeting are attached for your review and approval.

Item C

Meeting Minutes May 31, 2012 Special Meeting

Meeting minutes from the June 6, 2012 Special Meeting are attached for your review and approval.

Item D

Assessing Services RFP

The City's existing assessment agreement with Kenneth Tolzmann expires in 2012. Professional services should be advertised periodically to solicit quotes to ensure that the City is receiving the best value for its investment.

Staff requests approval of the issuance of the attached proposed RFP for assessing services.

Item E

Insurance Agent Services RFP

The City's existing insurance agency agreement with Bearence Management Group expires at the end of 2012. Professional services should be advertised periodically to solicit quotes to ensure that the City is receiving the best value for its investment.

Staff requests approval of the issuance of the attached proposed RFP for insurance agency services.

#### Item F

##### Replacement of Ice Arena Doors

The emergency exit and service doors located on the East Bethel Ice Arena are in a state of disrepair and do not operate correctly. Staff had contracted the replacement of 3 doors in 2011. Staff is recommending replacing the 4 remaining doors at this time. The attached quotes for the door replacement have been received and staff is recommending acceptance of the low quote from Jerry Gilmer Construction for the replacement of the 4 doors. Jerry Gilmer Construction is the contractor who replaced the doors in 2011 and staff is pleased with the quality of work. City staff will be responsible for the disposal of the old doors and the painting of the new doors.

Staff recommends accepting the East Bethel Ice Arena door replacement quote from Jerry Gilmer Construction for \$8,136.68. Funds are available and provided for under the Arena Operations, Building & Facilities Repair budget.

#### Item G

##### Approve Advertisement of Bids for Coon Lake Beach Road Resurfacing

Staff has been preparing project plans and bid specifications for the resurfacing project in the Coon Lake Beach development and plan to have the documents to the City Council at their July 5<sup>th</sup> meeting for review. Because of conflicts between the timing of deadlines for advertisement, the July 4<sup>th</sup> holiday, and the July 5<sup>th</sup> City Council Meeting, staff is seeking approval to submit the advertisement for bids by July 3<sup>rd</sup> to be published on July 6<sup>th</sup>. Doing so would allow the City Council to review the bids and award the project at the July 18<sup>th</sup> meeting as opposed to the Aug 1<sup>st</sup> meeting, effectively moving the project timeline up two weeks.

#### Item H

##### Resolution 2012-31 Accepting Donation from Hakanson Anderson

The City of East Bethel has received a donation of four Minnesota Twins Tickets valued at \$88.00 from Hakanson Anderson to be used towards the Family Fun Night scheduled for Friday, July 20, 2012.

Staff is recommending adoption of Resolution 2012-31 Accepting Donation from Hakanson Anderson.

#### Item I

##### Approve Liquor License 2012-2013

One of the liquor licensees (Fat Boys Bar & Grill) still had fees to be submitted at the last City Council meeting. This approval will also need to be contingent on the state liquor taxes being brought up to date. The background check is complete, the Sheriff has signed the application. This license application is being considered for the period from July 1, 2012 through June 30, 2013.

#### Item J

##### Approve Recording Secretary Contract

The City contracts for recording secretarial services for minutes for the EDA, Parks, Roads and the Planning Commissions. Jill Teetzel provided this service for the past three years and her current contract expires on July 31, 2012. The services of a recording secretary enables a better utilization of staff time and scheduling.

The cost for this service will be provided in the EDA, Parks, Roads and Planning budgets for 2013. The cost for this service is estimated to be \$2,100.00. There will be no increase in the hourly charges for this service.

Staff recommends that Jill Teetzel be contracted to provide the recording secretarial services for the Parks, Roads, Planning and EDA meeting minutes for the period of August 1, 2012 through July 31, 2013.

Item K

Approve Hire of Cable Technician

Staff received six applications for and interviewed five of the applicants for the Cable Technician position. Bryce Kastning is staff's recommendation for this position at a pay rate of \$16.00 per hour. There are no benefits associated with this position and it is anticipated that the annual cost of this employee will be \$3,000 in 2013. This cost would be covered in the proposed City Council and Planning Budgets in 2013. The costs for the remaining portion of 2012 are included in the City Council Budget.

Contracting this service saves approximately \$4,800 when compared to utilizing staff at overtime costs to perform this duty. Staff recommends hiring Bryce Kastning as the Cable Technician at a wage rate of \$16.00 per hour.

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**Fiscal Impact:**

As noted above

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**Recommendation(s):**

Recommend approval of the Consent Agenda as presented.

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**City Council Action**

Motion by:\_\_\_\_\_

Second by:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Vote Yes:\_\_\_\_\_

Vote No:\_\_\_\_\_

No Action Required:\_\_\_\_\_

## EAST BETHEL CITY COUNCIL MEETING

June 6, 2012

The East Bethel City Council met on June 6, 2012 at 7:30 PM for their regular meeting at City Hall.

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

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

Call to Order     **The June 6, 2012 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda     **Boyer made a motion to adopt the June 6, 2012 City Council Agenda.** DeRoche, "I would like to add 9.0 C Closed Session – GRE Settlement Litigation and Schafer Construction Company Permit for a Temporary Concrete Plant at 19315 Viking Blvd. NE under the Item U. Consent Agenda." Moegerle asked, "Is that based upon the stuff we got by e-mail or do we have information before us?" Davis, "You have information before you." **Boyer objects to the amendment Closed Session – GRE Settlement Litigation. There is no second to the motion to adopt the agenda.**

**DeRoche made a motion to adopt the June 6, 2012 City Council Agenda with the amendments as follows: 9.0 C Closed Session – GRE Settlement Litigation and Schafer Construction Company Permit for a Temporary Concrete Plant at 19315 Viking Blvd. NE under the Item U. Consent Agenda. Moegerle seconded. DeRoche, Lawrence, Moegerle and Voss, aye; Boyer, nay; motion carries.**

2011 Annual Financial Report by the Auditor     Davis explained that Mr. Brad Falteysek, representing the City's audit firm of Abdo, Eick & Meyers, LLP, will review the 2011 Annual Financial Report with City Council and be available for questions.

Brad Falteysek, "This is our first year doing the audit of your financial statements. You should have a couple reports in front of you. One is the actual financial statements that were prepared by management. Then next is our management letter. This is primarily what I am going to be going through tonight. It summarizes any findings we would have had in performing the audit, as well as a high level summary of the results of the audit.

Good News. After management had the trial balance and everything ready for us we didn't any other entries. So what that means is what you are seeing throughout the year is accurate data and you are able to make decisions on accurate data.

The first page of the management letter goes through our responsibility of the audit. To give you an opinion on the financial statements prepared by management to determine whether they are materially stated in all respects and in accordance with Generally Accepted Accounting Principles. We are issuing an unqualified opinion, or what we call a clean opinion. Again, we didn't propose any other audit procedures once we started with the audit. To develop audit procedures and what we are going to test we will look at your internal controls. What we are looking at is there any transactions where one person is handling it

from the beginning to the end. If there is, we will do more detailed testing in that area. Of some of your higher dollar amounts, so like your tax settlements, we make sure those are all getting recorded. Making sure your bank accounts are being reconciled monthly, in a timely basis.

Page 2 is Compliance in Other Matters. The Office of the State Auditor puts out seven check lists that are related to City government. They require us to go through and test certain State Statutes that you are required to abide by during the year as part of our annual audit process. If there was any findings related to those check lists we would report that here. We are not reporting any findings relating to those statutes. Middle of that page, aspect of accounting practices, it says here we would talk about any new government accounting standards. Again that is good. GASB54 was adopted this year. Doesn't change the results, just how they are presented in the financial statements. So if you are comparing last year financial statements to this years, you will see in your fund equity last year you had unreserved, undesignated and reserve fund balance. This year you will have non-spendable, restricted and committed assigned and unassigned. Those definitions are within your financial statements. Trying to get all governments in the same thinking of where they put different pots of money. The rest of page 2 and 3 are just some standard communication.

Page 4 is where we get into the results of the audit. We have two charts. The top one shows your fund balance compared to your following years budget. We recommend and the State Auditor recommends is to have at least 35-50% of reserves on hand for your following years budget. That is just because the majority of your revenue is received from taxes and assessments. You receive the majority of that in June and December so you want to have enough reserve on hand to get to that next revenue inflow. In 2007 were at 30%, and in 2011 you were able to increase that to 47%. You are at a healthy fund balance in your general fund

Page 5 is your total revenues and total expenditures compared to budget in your general fund. You are doing a good job budgeting and staying within that budget. Expenditures side, under by \$250,000. Have those outlined down below.

Page 6, here we are comparing revenues for the past couple years. Revenues for 2009 were almost 4.9 million. You are just over 4.9 million in 2011. So in the last three years revenues increased 2% in the general fund. We have a chart included that shows where your revenues are coming from. Majority is coming from taxes. Almost 89% is coming from taxes. Slightly down from 2009 when it was 89.6%. We also have amount collected per resident or per capita and you are receiving about \$381 per resident.

Page 7 is the same type of chart, just with expenditures. This is really consistent Your expenditures haven't really changed much in the last couple years. We have that per capita column again, for how much you are spending per resident and also have added a peer group per capita number. Here, as part of what we do for our clients, we collect all the reports that are submitted to the state auditor (every City that is having an audit submits a report to the state auditor) and we compile all the data and categorized them by the size of city. You are in the 3<sup>rd</sup> Class City. We took that class of cities and compared your numbers to that peer groups numbers and came up with per capita numbers just to see where you are. Per capita in general government you are spending about \$114 per resident and the peer group is spending a \$100. Public safety the peer group is at \$202 and you are at \$153. All the other categories you are below. Overall, total expenditures in general government for the peer group is at \$457 and you are at \$357. DeRoche, "When you say peer group, who are you comparing us with?" Falteysek, "Third class cities, so cities with populations of 10,000 to 20,000."

Moegerle asked, "You indicated on page 6 that basically our taxes per capita are \$381. Can you tell us what the taxes per capita in our peer group would be?" Falteysek, "We haven't calculated that." Moegerle, "Will you, or is that top secret?" Falteysek, "We have talked about it. There are a lot of variables in that and we have talked about putting that together but we haven't done that yet."

Page 8 is Special Revenue Funds. These are funds that have a restricted revenue source. Grants, Donations, HRA and EDA. The recycling fund increased fund balance \$8,100. Majority of the revenue for that comes from the recycling grant from the county. HRA increased fund balance almost \$100,000 and EDA (just starting out) had some expenditures without any revenues. It should be correcting itself going forward.

Page 9, Debt Service Funds. You collect property taxes, assessments and such to pay back your bonds. The chart there has your bonds outstanding and total assets. A lot of these do have a tax component to them. And we don't record any receivable for taxes so you won't see the total assets being closer to the bonds outstanding. For these you just want to continue to do cash projections to make sure you have enough cash to pay the bonds going forward.

Page 10, Capital Project Funds. Three major funds, Municipal Street Aid Improvement Fund, Water Infrastructure and Utility Infrastructure. Under non-main funds you have an improvement from 2003 that has a deficit of almost \$13,000. Here is a category where you do have assessments outstanding and once those are paid this will be cleared up. Moegerle, "I don't know what the improvements of 2003 are." Pierce, "They were more than likely street improvements." Falteysek, "Some of those assessments are delinquent, a small portion, but not all. Street Capital Fund had a transfer in of \$400,000. That fund increased \$140,000. The rest stayed fairly consistent.

The next three pages are your Water Utility and Ice Arena funds. Your water utility fund has had operating losses in the last three years presented here. It ended this year with a \$17,000 loss. In 2010 you had a gain but that was a result of a capital contribution. This fund you should monitor and see where the rates should be to meet your needs and adjust them accordingly. I could say exactly the same thing with the sewer fund. Continue to watch these rates and see what you can do to increase these funds. Because both these funds have cash deficits in them. You aren't seeing them here because we do interfund loans at the end of the year. Moegerle, "Are you suggesting our rates are too low? Is that what your point is?" Falteysek, "You have deficits in these funds, so yes. Rates or reduce expenditures. Ice Arena Fund, here you are meeting your operating income. You have some small non-operating expenses. Again, you need to look at these and see where do you want to go with these in four to five years. Where do you want these funds to end up? What should be the plan in place to get there?"

Page 14, this is the main chart that we put together as a result of the summer project after collecting all the data. Here is where we take a look at a lot of other ratios and compare you to the peer group. The first one is debts to assets. So we take a look at all your liabilities and compare those to your assets. So if this percentage was at 50% all the assets that you own, 50% would be financed through some type of debt. You are at 41%, slightly higher than the peer group at 36%. Debt per capita, this takes a look at all your bonds, compares them to your number of residents. You are at \$1943 where your peer group is at \$2500. So other Class 3 cities have higher debt loads than you do. Taxes per capita, same type of thing you are at \$415 and your peer group is at \$468." Moegerle, "You are comparing 2011 for us and 2010

for them, correct?" Falteysek, "There would have to be a whole lot of movement to make a difference significantly. Current expenditures per capita you are at \$426 the peer group is at \$432, looking at all funds, not just general fund. Capital expenditures per capita \$418 and peer group is at \$284, this can fluctuate depending on what kind of projects you are doing.

DeRoche, "How does depreciation factor in, one of his questions when he was looking at this. Looking at streets, buildings and equipment." Falteysek, "It will increase these percentages. Once the new assets go live, it will increase the percentages." DeRoche, "But there has to be a separate way of doing buildings, roads and equipment." Falteysek, "Yes, definitely, there are put on different lives. A building is 50 years, streets are typically 40 years and equipment is anywhere between 7 and 15 years. All put on different lives and follows your capital asset policy and whatever you have in there for how long you will have it before you will have to replace it."

DeRoche, "Okay so you are throwing percentages out at us and our peers. What is an ideal percentage?" Falteysek, "When we see these percentages getting down to 50% typically we will see higher repair/maintenance type costs. But I typically see higher percentages than 50, usually sees 60-70% range. Are you in trouble? You are adding some significant assets now, so those other assets that are in the 50% are probably going to start having some additional repair and maintenance costs." DeRoche, "Yes, but the expenditures once these bonds have to start making payments is going to tilt the scale pretty good too, correct?" Falteysek, "Yes, but some of the bonds you are going to pay back with connection charges. And other bonds you will be paying back with taxes and assessments. So, the ones that are being paid with taxes and assessment would affect some of these ratios, because all bonds are included in the bonded per capita number. Which right now you are lower than average. If not being paid back by taxes, wouldn't affect that that tax ratio." Davis, "We have already made bond payments in the amount of 1.5 million. And received credit from those bonds of about 1/2 million dollars."

Moegerle, "What is the single most important recommendation you would make to us as a Council?" Falteysek, "I think you need to take a look at your enterprise funds and look at how those are going to get paid for, water, sewer and Ice Arena. Figure out a plan to get those back into the positive. If that is your goal."

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

Consent Agenda **Voss made motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, May 16, 2012, Regular Meeting; C) Meeting Minutes, May 23, 2012, Special Meeting; D) Resolution 2012-25 Accepting Donation from Eckberg, Lammers, Briggs, Wolff & Vierling, PLLP; E) Approve Upper Rum River Watershed Management Organization (URRWMO) Budget; F) Approve Sunrise River Watershed Management Organization (SRWMO) Budget; G) Resolution 2012-26 Accepting Donation from CHOPS, Inc.; H) Award Class V Bid to Bjorklund; I) Resolution 2012-27 Adopt-A-Park Anderson Lake Park; J) Resolution 2012-28 Adopt-A-Park Booster Park; K) Accept Resignation of Building Official; L) Appointment of City Arborist; M) Approve Application for 1 to 4 ay Temporary On Sale Liquor License for Alliance for Metropolitan Stability at Blue Ribbons Pines Disc Golf Course on Saturday, June 23, 2012; N) Pay Estimate #3, Municipal Builders, Inc. for Water Treatment Plant No. 1; O) Pay Estimate #3, Caldwell Tank, Inc. for Elevated Storage Tank No. 1; P) Pay Estimate #13, S.R. Weidema, Phase 1, Project 1, Utility Improvements, Q) Resolution**

**2012-29 Acknowledging Donation from East Bethel Seniors for Schoolhouse; R) Approve 2012-2013 Liquor License Renewals; S) Request for Detour Route on Sunset Drive; T) Approve Permit for CS McCrossan for Temporary Concrete Plant for Hwy. 65 “Whitetop” Project; U) ~~Schafer Construction Company Permit for a Temporary Concrete Plant at 19315 Viking Blvd. NE. Boyer seconded.~~ Moegerle asked to pull item E) Approve Upper Rum River Watershed Management Organization (URRWMO) Budget; F) Approve Sunrise River Watershed Management Organization (SRWMO) Budget for brief discussion. Voss said and he wants to pull items ) Meeting Minutes, May 23, 2012, Special Meeting and U) Schafer Construction Company Permit for a Temporary Concrete Plant at 19315 Viking Blvd. NE. **Voss and Boyer are both fine with the amendment. All in favor, motion carries.****

Meeting  
Minutes, May  
23, 2012

Voss said in the minutes, he arrived late and it is on page 33. But earlier in the minutes it says “all in favor”. He is not sure how to change it. Voss said maybe under Members Present put the time arrived. He said he wasn’t there for the first few votes.

**Voss made a motion to approve Item C) Meeting Minutes, May 23, 2012, Special Meeting. DeRoche seconded; all in favor, motion carries.**

Approve  
Upper Rum  
River  
Watershed  
Management  
Organization  
(URRWMO)  
Budget

Moegerle, “With regard to the Watershed Management Organizations, last year I did not vote in favor of the Sunrise Management increase and I see that we now have a decrease. But I was wondering if we could have each of these organizations explain this (just so we can prove we are getting value for our money). It is East Bethel’s dollars.” Davis, “We have in attendance , Jared Trost from the Upper Rum River WMO and at the end of his presentation we have Leon Mager from the Sunrise River WMO.”

Jared Trost of 23016 Sunset Road NE, “I don’t have a prepared presentation, but I can answer any questions.” Moegerle, “One question I have is the percentages, we are 24.21% is that based upon population, or how did we come up with that percentage for East Bethel?” Trost, “I believe that is based on watershed area and then administrative things are applied equally among the membership cities.” Moegerle, “What will be done in 2012 for our dollars that we contribute to the organization?” Trost, “A big part of what we do is work with the Anoka Conservation District. An example of the things we do is we have a monitoring plan which is important for resolving disputes with water bodies, water quality issues, and those sorts of things. They have benchmark lakes that they monitor. As much as they can they involve the citizen monitoring groups. Your dollars buy a facilitator that uses a lot of volunteers to get the work done. Lake level monitoring. The monitor four lakes, Lake George, East Twin Lake, Cooper Lake and Minard Lake.

Other things they do is they have water quality cost share grants. So if they have an issue with water quality on their lake or their shoreline is degraded there is cost share grant money available that they use to restore that property. So we contribute to that fund to enable homeowners to better their property. They also maintain the website and they send out an annual newsletter on water issues. And there is the annual report to BWSR that has to be done, not sure of the details, but it is a mandate that we have to comply with.” Moegerle, “It would be helpful for the residents to find out if Watershed Management Organizations (WMO) are mandated by the state and where does that mandate come from.” Trost, “There is legislature that calls specifically for a WMO. Where they got established he is not sure of, he would have to look into that history a little bit more.” Davis, “That mandate is for the seven county metro area.” Lawrence, “What is the water quality for Coopers Lake? We had a resident that wanted to put a power boat in that lake.” Trost, “I don’t have that here. But, I do

know there has been level issues with that lake. And the last round of dry weather dried it up more. It is one of the lakes they are watching closely.”

DeRoche, “When you discuss water quality issues, what are you looking for chemicals, weeds, eurasian milfoil? What exactly are you looking at?” Trost, “ Mostly what they are monitoring for, meeting benchmarks set by the Met Council. There are designated uses for water. The key things they monitor is water clarity, phosphorus levels, other basic parameters such as temperature, etc.” Moegerle, “How much in cooperation with Cedar Creek Ecosystem Reserve are you involved. Because Dr. Jeff Corney was here at the last meeting talking about some of this.” Trost, “He used to work there. There is not a lot of direct cooperation between Anoka Conservation and Cedar Creek in terms of water quality. Cedar Creek is getting a lot more education groups through, so perhaps there is more volunteer efforts happening.”

DeRoche, “I want to bounce back to this water quality thing. My concern is I live on Coon Lake. I am not quite sure what studies have been done. People want a crystal clear lake, you can create your own little pond. But don’t do it with a natural lake, because if you clean it up too much you are going to kill the habitat in the lake. I notice an awful lot of scum and green pockets that float now. I have been on there for about 31 years and never saw this as an issue until this weed killing started going on. You just can’t keep killing all the weeds in the lake because someone wants a crystal clear water. That’s my concern is how far are we going to go with chemicals and everything to clear out the water. Yes, it is a pretty lake, but you have nothing in it. And Coon Lake is basically there, rain water and snow. What studies have been done to see what the damage is that is being caused to the lakes? I know the Outdoor Life Newspaper came out and did a study, sunnies aren’t bad, and crappies are pretty much gone. They are attributing that to the aerator. That is a big concern. What good is a crystal clear lake, you have no weeds, you have no fish, no turtles, what are you going to do on it?

Trost, “That is some of the purpose of Met Council’s scheme to find out the values that people have for the water. Some people might like the crystal clear water. For a water-skier, maybe that is nice. But for a fisherman, that isn’t good, because you lose all your habitat. The best place to look for studies on herbicides applications on the lakes is probably the Minnesota Department of Natural Resources. I am not aware of any studies specifically done on Coon Lake or lake health following that. But they control the permits and administer that process.” Boyer said correct me if I am wrong, but I don’t think the Upper Rum has ever participated in the treating of the lakes. Trost, “Since he has been involved we haven’t had to address that issue.” DeRoche, “What is the state of it with all the rain we have had? Did that cause issues with the Rum River?” Trost, “Not aware of any issues. It is certainly higher than it was two months ago.”

Approve  
Sunrise River  
Watershed  
Management  
Organization  
(SRWMO)  
Budget

Leon Mager, 19511 East Tri Oak Circle NE, “I will address some of the questions that you have already asked. The first is how did we come up with the percentage that each city has to pay for their share? East Bethel would like it to be based on the acreage that each of the four entities have within the watershed. Columbus would like for it to be based on tax basis that each of the entities have in the watershed. So, as a compromise, we used a weighted average of each of them. ½ is based on acreage in the watershed and the other half is based on your tax base in the watershed. Next question, why the watersheds? The Federal Government passed the Clean Waters Act back in the 1940’s and your conservation districts. In the early 1970’s they put some meat in Clean Water Act and put some requirements on the states. Our state then decided that the Minnesota Pollution Control Agency would be the policing of this and the state standards and then they delegated that unto BOWSER. They then said in the

seven metro county area we are going to have watersheds. They did it by watersheds because they ran across community boundaries and that way they wouldn't be run on a community basis.

Watersheds deal with surface water only. Within our watershed we have five bodies of water that are listed as being impaired. They do not meet the state standards. The herbicides are not targeted to make crystal clear water. They are targeted to decrease the native plant life within the lake. The targets are only for invasive species. On Coon Lake in particular they are only targeted for two species, curly leaf pond weed and Eurasian milfoil. Some lakes get monitored every three years. Coon Lake is monitored every two years. This will be the first year we will monitor the west basin. All the monitoring has been in the east basin only. One of the things mentioned was phosphorus, state standard is you cannot exceed no more than 40 parts per million. In our last six years the samples has shown that Coon Lake is right on the border of becoming impaired for the phosphorus reason. It is running between 38 and 39 parts per million.

DeRoche, "Isn't some of that attributed to the fact that a lot of people have moved from the cities and are not happy with what they have. So they take the lakeshore right on down, take the natural filter away and we want pretty green grass so now we are going to fertilize down by the lake. And to his knowledge, he has never seen anyone monitoring that. I have been on that lake for 31 years and before they did the landing on 22, which was in about 1988 or 1989 when the lake went way down, and then they decided to do the county beach again. And they say they have a couple bass tournaments a year, well it is a heck of a lot more than that. There is nobody monitoring all that. You can put all the money you want into it. But if you are not going to monitor it, you might as well just throw you money on your fire pit and burn it."

Mager, "The monitoring that we are doing at Coon Lake or any of the lakes to see if it meets the state standards about 10 times during the summer. They are done weekly, the chemical analysis, then the water clarity and the water level. They have volunteers that do some of this and report it to the conservation district and BOWSER. There are two types of monitoring that is going on at Coon Lake." DeRoche, "My monitoring is when that parking ramp is set for 41 vehicles and there is 75 out there. And you see the trailers go in and people put the boats in and there are still weeds on the trailer, they pull them out and they move on down the road. When I first moved up here, there was someone that sat on the weekends and watched boats coming and going. If you are not going to keep track of that, then it is pretty futile what you are doing."

Mager, "There was a matching grant to have somebody sit at the public accesses this spring, the Coon Lake Improvement Association did apply for that grant. They were going to pay for half of it and they did not get that grant." DeRoche, "So here is my dilemma. The state wants this clean water, and they have BOWSER and all these other departments, administrative fees and all this other stuff. And yet there is no monies available to keep the waters clean?" Moegerle, "The coon lake community center, as part of the dock agreement requires that their dock users mow their areas. Of course there goes our filters again. What is your relationship with the community center as far as education on that issue and to get gutters on their southern side so all that rain water doesn't go back in to the lake."

Mager, "We have been very successful getting grant money for our Martin Lake work. We picked up \$155,000 in grants so instead of that being a five year project, it has gone down to a two year project. Also we are moving up our Coon Lake work and starting it this year. I

will explain a little about that work. If you look at the watershed that is feeding Coon Lake what they do is go around and do a topology map and everything feeding into the lake. And all the points of entry around the lake. Imperious surfaces. Then the determine calculation of phosphorous coming up and come up what they can do at all those locations, such as rain gardens, etc. Then if they can get the people that own the property to agree, then they will go for grant money. They projects need to be shovel ready. That is the process that we are starting on Coon Lake this year. If you look at what was done in Martin Lake, the four cities put up \$20,000 and we got \$20,000 in grant money. Hopefully by next year we will have the areas identified and the candidates. Then the process will start and the conceptual work will be done. That is addressing the runoff that you are talking about. We are also starting a marketing campaign to get people to recognize the problems with these lakes. They are designed to have a natural shore environment. We have 440 homes around Coon Lake, although we have 17 miles of shoreland that still takes up a significant amount. It is not environmentally friendly. DeRoche, "When the milfoil started out there, I researched it on the internet. It said if you leave the natural vegetation alone, then the milfoil will not come in and consume the lake. I know some people I live by have weed rollers. I don't know if you can educate some people."

Voss said he thinks the problem with the lake with the green scum and it was like this last year too, it is pretty easy to see that these last two years we have had an exceptional amount of rain. The lake is as high as it has been in a long time. Voss said and it is part of the reason they are doing the study, it is not just the lakeshore homeowners. It is the watershed and that is why it is the watershed approach. All the homeowners that live off the lake have a contribution of phosphorus load to the lake and that is why we are doing projects like the one off of East Front Boulevard. That is a project that is going to reduce phosphorus. He is going to guess that this year we have had such a flushing of the watershed into the lake. Mager, "We have to put the herbicide on the lake before the native plant life starts up. We have to have water temperatures between 50 and 60 degrees. That is a targeted herbicide."

DeRoche, "Coon Lake used to be considered a glorified swamp. Was his understanding that 15% of the lake was treated. But what keeps those chemicals from going wherever they want?" Mager, "We don't have much movement, so we don't have to go to granules. We are going with liquid and we don't have any problem with that. There is some that spreads out, but we are not on a river lake, we are on a watershed lake." DeRoche, "Which is a problem because lakes only turnover twice a year. There really isn't any inlets into Coon Lake." Moegerle, "Come back, it is important for us to know what you are doing and that the residents know what you are doing and that they are getting value for your work." Mager, "Big thing is we are finishing up with the Martin Lake area and have moved up the Coon Lake area and reduced budget by 12%."

**Voss made a motion to approve the Sunrise River Watershed Management Organization (SRWMO) and the Upper Rum River Management Organization Budgets. Boyer seconded; all in favor, motion carries.**

Schafer  
Construction  
Company  
Permit for a  
Temporary  
Concrete Plant  
at 19315

Voss said the only reason he pulled this is to have a brief explanation of it and where it is, so when the public sees this they understand it and where it is going. Davis, "This is the same proposal that was in your agenda that was based on the CS MsCrossan. We got this call last Friday. We were notified by the Schafer Construction Company that they received the bid for the overlay project on Viking Blvd. from Highway 65 to Vickers Street. They propose to put a temporary concrete batch plant in at 19315 Viking Boulevard NE, which is the Don Shaw Property. This is just south of our water tower and fronts Viking Boulevard. They

would use this and begin construction approximately the first week of July. They have 40 days to complete the work.

Lawrence, "For how long would this be?" Davis, "They have 40 days to complete the project. They anticipate starting the overlay around the 1<sup>st</sup> of July. One thing on this is we recommended a \$75,000 Letter of Credit for McCrossan. This project will not involve any traffic on city streets. So I am recommending that we reduce their Letter of Credit to \$25,000 just to cover any site cleanup that may be necessary when they finish the project." Boyer said we have approved these in the past, but one thing he has seen as a concern is daily clean up. He said he assumes they are not closing Viking Boulevard and it will be open for one lane of traffic generally. Davis, "Viking Boulevard will be open to local traffic. There will be detour routes available. We will work with Anoka County Highway Department to get signage that the businesses along those routes are still accessible. The clean up portion on Viking Boulevard will be part of the Anoka County contract." Voss said we all drive down Lexington and the County doesn't do a good job enforcing the soil control. Only thing we can do is call the county everyday to get it cleaned up. Voss said they should be doing the erosion control on site so this doesn't even get on the road. DeRoche, "If they cause damage, will we have to clean it up?" Davis, "This is not a real change from what is already there."

**Voss made a motion to approve the permit for Schafer Construction Company for a Temporary Concrete Plant at 19315 Viking Boulevard NE. Moegerle seconded.** Boyer asked if city attorney has any concerns. Vierling, "No. We have imposed pretty much the same conditions as we did on McCrossan." DeRoche, "So then when we ask the county to come out and do the cleanup they are going to say, "Well East Bethel you approve this you deal with it." Voss said and the contractor has a legal responsibility from state law that they need to practice best management practices. **All in favor, motion carries.**

Appoint  
Website  
Committee

Davis explained that the City's website was updated to new template in June 2011. This update was an improvement over the format and template of the existing website but was intended as only the first step to make the website more user friendly and current with basic website standards.

To insure that all the concerns regarding the website are addressed, staff is requesting that City Council appoint a committee composed of two Council members and one member from the EDA and Planning Commission and up to two citizen members to work with staff to prepare recommendations and directions to correct and improve the content, format and utility of the current website. These recommendations will be used as the outline and specifications to solicit a vendor to perform this work.

It should be the goal of this committee to develop recommendations and report their findings to City Council at the July 5, 2012 Council meeting. The recommended schedule for the Committee meetings are Wednesday, June 13<sup>th</sup> at 6:30 PM, and Wednesday June 20<sup>th</sup> at 5:30 PM. Monday June 25<sup>th</sup> and Wednesday June 27<sup>th</sup> at 6:30 PM can be included if necessary.

Invitations were extended to and attendance was requested by Brian Mundle, Jr., Jordan Flagstad, Teri Nicolas, Jodi Vetsch and Randy Plaisance as citizen applicants for this committee. Council, may at this time, interview the candidates.

Moegerle, "Are we looking at content, organization, templates?" Davis, "There are no limits."

Brian Mundle, Jr. came forward. Lawrence, "What do you think of this website review?"

Mundle, "I think it is time for it." Lawrence, "Have you had much experience with website design?" Mundle, "My experience has been in college I made my first website using just HP and HTML language. Then after graduation working for BDM I overhauled their site. And I have done it a couple times since then. In 2009-2010 I took a course and got a certificate in website development. Using Dreamweaver and Flash to design. I am an active user of websites all the time. I know the designs." Lawrence, "What do you think of our website as it is right now?" Mundle, "There is room for improvement."

Moegerle, "What is the one single thing we need to address immediately?" Mundle, "Image and user-friendly-ness." Moegerle, "Image meaning the girl?" Mundle, "Yes, it should be a little bit different." Moegerle, "I was on the original committee. And we looked at all the other templates for that picture and they were all taken by cities nearby." Mundle, "If we were to bring in a website builder, we could say this is what kind of website we want and the main discussion would mostly be the image of it. Don't need to reinvent anything. In fact that would take too much time. We just want something that is updated to now and user-friendly. Look at analytics and what web pages are used most. Invite the seniors in and see if they can find things on there."

Randy Plaisance of 715 192<sup>nd</sup> Avenue NE, "When the advertisement went up, wasn't a lot of information of what you were looking for. However, I work at Target Corporation and do layout design. I have built a website for myself and for others. Also built a website for church in Oak Grove. I am willing to work with the community to make it better. Moegerle, "What is your experience with our website?" Plaisance, "Well of course as soon as I made the application I went right on and browsed it and went through it. It was rather amusing when you were talking about the picture of the little girl and the first thing that comes to mind is no, this is not South Carolina. Because when you open the picture all you see is these reeds and an ocean. Obviously with a website for East Bethel, you want something that is going to be defining of what we are, what we represent. So in that case you want something that is inherently East Bethel. In navigating through it, I was pleasantly surprised. A lot of information there and organized fairly well. Has to be kept up-to-date."

Moegerle, "When you talk about layout design, is that of websites?" Plaisance, "No, I work with Adobe it is a design program that can be used for paper or websites. I don't use it for websites." Moegerle, "At the first meeting what is it that you are going to want to know from the city?" Plaisance, "What is it that you going to want to get out of this? Been reading about your meetings and that seems to be where you are going." Moegerle, "Marketing and Branding?" Plaisance, "Yes, marketing and branding. My contribution will be helping you get what you want out of the website."

Davis, "Mike Connor from the EDA and Tanner Balfany from the Planning Commission have both volunteered to serve on this committee. Dan Butler and Lou Cornecelli would be available as alternates. Boyer asked before we get too far down the road, how are we paying for this? Davis, "This would be a cost item though the EDA." Boyer said and so EDA approved this? Moegerle, "Yes, it is part of their budget."

**Voss made a motion to appoint Tanner Balfany with Lou Cornicelli as his alternate from the Planning Commission and Mike Conner with Dan Butler as his alternate from the EDA to the Website Workgroup. Boyer seconded; all in favor, motion carries.**

**Voss made a motion to appoint Randy Plaisance and Brian Mundle, Jr. to the Website Workgroup. Boyer seconded; all in favor, motion carries.**

Moegerle, “She would volunteer to be on the website workgroup.” Voss said he is interested, but all four of those dates he is already booked. He does have four dates in June if anyone is interested. Voss asked did the other members agree based on those dates? Davis, “No they have not been furnished with those dates.” Voss said the dates he is available is June 19, 21, 27, 28. Moegerle, “June 21<sup>st</sup> she is not available.” Lawrence, “We could have Council Member DeRoche as an alternate.”

**Boyer made a motion to appoint Council Members Moegerle and Voss to the Website Workgroup with Council Member DeRoche as an alternate. DeRoche seconded; all in favor, motion carries.**

Lot Line  
Adjustment –  
Peterson and  
Johnson –  
1872  
Briarwood  
Lane NE

Davis explained that Mr. Peterson is requesting approval of a Registered Land Survey. Attachment 4 shows the Registered Land Survey. Each tract is owned by Mr. Peterson. Tract A is small in size and is of insufficient use to Mr. Peterson. He is proposing that Tract A be combined with the property owned by Mr. and Mrs. Johnson at 1821 Briarwood Lane, as shown on attachment 1, and intend to add Tract A to their property.

The Johnson’s existing property is 9.9 acres; combining Tract A will increase their property to 10.56 acres. Mr. Peterson will retain ownership of Tract B and C. Tract C will remain at its current size of 15.8 acres. However, the City Engineer and City Attorney have made the suggestion that Tract B be deeded to the City of East Bethel as Tract B is an existing permanent easement for road, drainage, and utility purposes.

Attachment 5 and 6 are the letters from Mr. Craig Jochum, City Engineer and Mr. Mark Vierling, City Attorney. Mr. Jochum suggests a delineation of the wetlands; however, staff recommends this not be required since the property is not subdivided for building purposes, rather it is an existing lot of record with existing structures. Mr. Jochum also suggests the Tract B be deeded to the City of East Bethel.

Mr. Vierling recommends an ownership lien and encumbrance report be made part of this action, Tract B be deeded to the City of East Bethel and that Tract A must be combined with Mr. and Mrs. Johnson’s parcel, located at 1821 Briarwood Lane.

Anoka County Surveyors Office has reviewed the survey and found it acceptable.

City Staff is recommending approval of the Administrative Subdivision/Registered Land Survey for the property known as 1872 Briarwood Lane, PIN’s 33-33-23-32-0015 and 33-33-23-32-0003. The approval shall be contingent on the following:

1. Submit an ownership and encumbrance report on all of what now constitutes Tracts A, B, and C prior to registering the land.
2. Obtain a conveyance of Tract B within the registered land survey to the City of East Bethel.
3. Tract A must be merged with the property known as 1821 Briarwood Lane, PIN 33-33-23-23-0004.
4. Filing of the Registered Land Survey must be completed no later than September 28, 2012. Failure to file may void the approval by the City Council.

**Boyer motion to approve the Administrative Subdivision/Registered Land Survey for the property known as 1872 Briarwood Lane (PINs 33 33 23 32 0015 and 33 33 23 32 0003 with the following conditions: 1) Submit an ownership and encumbrance report**

**on all of what now constitutes Tracts A, B, and C prior to registering the land; 2) Obtain a conveyance of Tract B within the registered land survey to the City of East Bethel; 3) Tract A must be merged with the property known as 1821 Briarwood Lane, PIN 33-33-23-23-0004; 4) Filing of the Registered Land Survey must be completed no later than September 28, 2012. Failure to file may void the approval by the City Council. DeRoche seconded.** Larry Peterson, property owner, “They property address of for Mr. Johnson is 1925 Briarwood Lane NE. Also, we currently have a fence on the existing parcel, is that impacted by this?” Jochum, “No, it is in an easement now.” **All in favor, motion carries.**

MCES  
Amendment  
#2 Castle  
Towers  
Construction  
Agreement

Jochum explained that November 12, 2010 the City entered into a Construction Cooperation and Cost Share Agreement with Metropolitan Council to construct the Phase 1 Project 1 Utilities. The Agreement identifies the cost share between the Metropolitan Council and the City for the project. The estimated cost for the Metropolitan Council identified in the original Agreement was \$8,100,000. Amendment No. 1 which was approved by City Council on May 2, 2012 revised the total estimated cost share for Metropolitan Council from \$8,100,000 to \$8,700,000 based on the actual construction bid.

Attached Amendment No. 2 provides the conditions and estimated cost share between the City and Metropolitan Council for the joint Castle Towers/Whispering Aspen sewer forcemain project. The estimated cost share is as follows:

<u>Item Costs</u>	<u>City Project Costs</u>	<u>Council Project</u>
Estimated Design Cost	\$ 102,000	\$ 198,000
Estimated Construction Cost	\$2,100,000	\$4,100,000
Construction Phase Administration, Engineering and Inspection	\$ 190,000	\$ 368,000
Land Acquisition	\$ 150,000	\$ 750,000
<b>Subtotal</b>	<b>\$2,542,000</b>	<b>\$5,416,000</b>

Section 3.04 of this agreement allows the City to reject the bid as recommended by the Metropolitan Council. However, the City would be required to pay the Cost of the Design Documents.

Section 12.03 also addresses the connection of the Whispering Aspen and Castle Tower existing lots to the Met Council system without any SAC charge. .

Staff recommends Council approve Amendment No. 2 to the Metropolitan Council Construction Cooperation and Cost Share Agreement.

**Lawrence made a motion to approve Amendment No. 2 to the Metropolitan Council Construction Cooperation and Cost Share Agreement. Voss seconded.** Voss asked where is discussion on the waiver of the SAC charges. Jochum, “In Section 12.03. For any unit that was in place October 13, 2012.” Voss asked so this is for existing. So any connections after that date are paying a SAC charge. Jochum, “That doesn’t necessarily mean the city won’t impose any SAC charges.” Moegerle, “Is there an anticipated date of completion?” Jochum, “I think they want to bid this either late this year or early spring next year.” Davis, “The bid schedule is to get it bid by late July/early August. Completion date, I haven’t heard a final on that. But it would be done prior to the completion of the waste water

treatment plant which is scheduled to be completed by September of 2013.” **Boyer, nay; DeRoche, Lawrence, Moegerle and Voss, aye; motion carries.**

**Resolution  
2012-30  
Accepting  
and Adopting  
the 2011 City  
of East Bethel  
Annual  
Financial  
Report (AFR)**

Davis explained that the 2011 Annual Financial Report (AFR) has been prepared, audited and was presented for your review and approval.

Resolution 2012-30 formally accepts and adopts the 2011 Annual Financial Report and directs the submission of the Annual Financial Report to the State Auditor.

Staff recommends adoption of Resolution 2012-30 Accepting the 2011 Annual Financial Report for operations and activities of the City of East Bethel for fiscal year 2011 and direction to submit the report to the state Auditor.

**Moegerle made a motion to adopt Resolution 2012-30 Accepting the 2011 Annual Financial Report for operations and activities of the City of East Bethel for fiscal year 2011 and direction to submit the report to the state Auditor. Boyer seconded; all in favor, motion carries.**

**Appoint  
Interim  
Building  
Official**

Davis explained that the City’s Building Official has submitted his resignation effective June 7, 2012. State Statutes require that statutory Cities must have a City Building Official. The Building Official can be a staff or a contracted position but must be one who is certified as a Building Official.

In order to comply with statute, the City must designate a Building Official and provide notification to the Department of Labor and Industry as to the change. There are three options available for consideration:

- 1) Assign the current Building Inspector to the position of interim Building Official;
- 2) Contract the services with one of our neighboring Cities or Townships;
- 3) Contract the service for the Building Official with a private company; or
- 4) A combination of any of the above items.

In our discussions, Linwood Township has agreed to allow us to designate their Building Official, Kevin Tramm, as East Bethel’s interim Building Official if we choose this alternative as a temporary solution however, Linwood building official does not have all his steps completed for his SSTS. He has completed his required courses, but lacks five inspections before he would have this completed which would take him at least a month. Moegerle, “So he has completed his testing it is just the practical he has to get done?” Davis, “That is correct. You have to have the course work completed and then you need to do 15 inspections. He has completed 10.”

Should Council consider temporarily contracting this service, I have included a sample proposal for building inspection services for your review. Inspectron is one company that provides this type of service. They serve Oak Grove.

There are sufficient funds in the 2012 Building Department Budget to cover the costs of any of the three alternative described above. It is estimated that contracting for the Building Official service would cost approximately \$4,400 (80 hours of service), assigning the current Building Inspector to the position of interim Building Official would cost approximately \$3,500 (320 hours) and the cost of contracting the services with a neighboring City would be approximately \$1,000. The time span of utilizing a temporary or interim Building Official is anticipated to be 2 months and would permit the City to advertise and hire a Building

Official.

Staff is recommending that the position of Building Official be filled by a full time employ of the City at a salary to be determined and is seeking direction as to Council's intent to proceed on the designation of a temporary Building Official until staffing of this position can be completed .

Voss asked how long do you think the process will be to fill the position? Davis, "Two months maximum, best case six weeks." Boyer said he assumes that staff can have the appropriate position description prepared by the next council meeting for the building official? Davis, "That is correct, we could have that ready at the July 5<sup>th</sup> meeting for approval." Moegerle, "So there will be some changes to the job description or how is that going to go?" Davis, "I think a couple things we need to look at for a job description of the building official is to include a candidate that has experience in water and sewer connections, some experience in basic drafting of fundamental ordinances that relate to the department." Moegerle, "And those are new criteria, correct?" Davis, "That is correct." Moegerle, "Are you thinking these are going to be substantial changes to what we have had in the past?" Davis, "I would anticipate that. I would like to get the building official a little more involved in the ordinance work. We also need to consider once a building official is hired how we are going to run the department. Supervisory experience. We might have to look at alternative means to do some code enforcement, hire some part-time people to keep the current situation we have. Those are some things that will come up."

Moegerle, "At this point, how busy is building inspector if he were appointed interim building official?" Davis, "The current building inspector is very busy. We have had a busy year. We have issued two new single family home permits. But we have issued a lot of deck, siding, roofing, window permits. A lot of code enforcement complaints. A lot of things that require a lot of time but don't generate a lot of permit revenue. For an example, if we get a code complaint, it may take the inspector a couple hours to go out and investigate it. But yet we get nothing in return for it. A part of this is a basic service of the department that we have to anticipate on providing."

Voss said he understand if we contract it out what that fee is. And I understand if we appoint the building inspector there is a temporary increase in salary. He said but I don't understand why if we went with Linwood it would only be \$1,000. What is that person going to do? Davis, "What they have proposed is they would charge us 80% of plan review and 70% of inspection fees. Actually with Linwood it would be revenue positive because for minor things they wouldn't charge us anything." Voss asked but in terms of duties, is it a matter of them just putting final approval on what the building inspector sees? Davis, "He would anticipate that they would just be there to sign off on the things that we as a staff cannot sign off on without a designated building official." Voss asked are they full-time at Linwood? Davis, "No, I think he is 20 hours." Voss asked is it certain days he would be here? Davis, "That would be worked out. Wouldn't anticipate we would be calling on them for many inspections or plan reviews." Voss said his question is as a resident that is asking the city for these services, is it going to be delayed? Davis, "There may be a few delays on an interim basis. It would be a matter of coordinating his schedule. I wouldn't anticipate lengthy delays."

Boyer asked how long do you anticipate it would take for staff to develop the position description as discussed? Could we call a Special Council meeting to move the process forward? Davis, "I could have it done if you wanted to call a special meeting for next Wednesday." Moegerle, "I am concerned, because from what Ady Voltedge told us code

enforcement is very important. And if we don't have good enforcement in the summer months, it is very hard to get done in the winter months because so much of it gets covered over. As much as I think it is important to have an interim building official, I think it is important to have code enforcement throughout. So if we appoint our current building inspector as interim building official, how effective are we going to be on code enforcement during these important two summer months?" Davis, "We are not going to be effective on code enforcement until we have two people in that office. One of the things we could do is hire someone just to do code enforcement. Yesterday I took two calls for barking dogs, one call for someone doing landscaping in their yard and three other calls for code enforcement." Boyer said you mentioned that the Linwood person is working 20 hours a week, maybe we could approach them and see if he could work 10-15 hours a week doing code enforcement. Voss said but then there would be a cost.

Moegerle, "She has heard from Oak Grove and their experience about contracting. Once you get them in and into our environment, accustomed to what we are doing, we have spent a lot of time and money and haven't gotten much done outside of the building. From what I understand, our building inspector has been taking the Linwood building official around for his 10 septic inspections. So I have a concern that if we appoint their building official as our building official how that dynamic is going to work. Since our building inspector has been training their building official to do his septic inspections. There is no easy answer to this. Because again, I think we can't overlook code enforcement."

Voss said to me what is important is not to thin out our ability to provide services. Which means we need to get a permanent building official in here as soon as possible. Voss said if we were to use the Linwood building official, that would satisfy the statutory requirements granted all the certifications are not there, but they are between the two of them. He said and now the building inspector's time is really not diluted. When we do get in the process of hiring the building official, assuming our current building inspector is going to be applying, then it is more of an open process. Voss said in terms of the whole hiring process, it helps with that.

Davis, "Mark and I discussed this earlier and one of the issues of appointing an existing employee as an interim employee is it puts them at an altered employment status. And should the city decide they need to go with other personnel to fill that position then that employee could be left without a position. Lawrence, "The concern he has is Linwood is not yet qualified. I think our only real option available is to contract with an outside company. It would cover the qualification aspect." Voss said we will have the qualifications within city staff to do that. Davis, "Our current building inspector has this certification." DeRoche, "We are coming for the situation where our building official didn't have this certification and our building inspector did, correct?" Voss said the interim is not going to be any different than what we just had, right? The only difference is we are on the path to hire a building official that will have that certification. Boyer said most cities have not had exactly stellar experiences with contracting with these firms.

Moegerle, "Here is my concern. If we get in someone new, basically the building inspector is going to be in the position of advising the interim all about the nuances of a particular situation. We recently cut the inspectors salary by 20% because there wasn't any work. On the other hand I also see as a practical matter, day to day, he is going to have some responsibilities if we go with someone outside of him, to help train in the interim person. Should part of the discussion be do we give part of that 20% we cut back in recognition of the duties and responsibilities of training in whoever we get?" Voss said he doesn't see him

training him in. We have gone three months with just the building inspector just doing it all. Voss said if we had a choice, and didn't have to meet the statute, I would just keep going like this until we hired someone.

Emmanuel Sackey, Building Inspector with the City of East Bethel introduced himself. Moegerle, "If we get an interim building official say from Linwood or a contractor, what kind of responsibilities will you have to get them accustomed to how East Bethel handles its matters?" Sackey, "The job description will change. According to the city ordinance there are a lot of responsibilities that the building official carries. He needs to be here for a lot of different things. He needs to make a lot of decisions. If he is in Linwood or Rosemount, making those decisions will be, it will create a bottle neck. You will have permits waiting to go out. Before a permit can go out of this building it needs to be signed by the zoning administrator and building official. So if you apply for a deck permit, I can do the plan review, but I won't be able to issue the permit until he comes in and signs it. If a resident walks in here and has a complaint the building official is responsible for enforcing the ordinance. I cannot make a decision. It will create a bottleneck. There is a lot to do in the city, we do the septic inspections, which includes monitoring the systems, pumping every three years (they get those letters from me), system upgrades, and we keep data of everything we do. Code enforcement, we get a lot of complaints in the summer months. It slows down during the winter time. Building department, it falls under two categories, commercial and residential. In licensing with the state, a Limited Building Official can only do residential."

Moegerle, "Are you a certified building official?" Sackey, "Yes, I have been certified for over 15 years in the State of Minnesota." Moegerle, "When was the last time you did commercial plan review?" Sackey, "I did the plan review for Cemstone, Theatre, Fire Station, City Hall Addition, Water and Sewer Treatment Plant and Aggressive Hydraulics." Voss asked in the time our Building Official has been on leave you have been able to sign all permits? Sackey, "Yes.". Voss asked the city attorney, what will happen if we don't appoint a building official? Vierling, " You would probably have some regulatory action by the Department of Administration. Don't want to get in that position with the state." Voss said in no way is he interested in bringing in an outside contractor. Sackey, "The way contracting works, if you certify with the State of Minnesota and you run a private business, you can have people work underneath your license that are not licensed."

Voss said he doesn't see a lot of downside in having the Linwood building official serve as the interim building official and we get response time set down. DeRoche, "And it is a real temporary basis." Davis, "If there is no concern about certification then we would have a much better chance of success working with Linwood than a private contractor." Moegerle, "The problem I have with it is the greatest concern that some of us had here, was our building official was to have his certification years ago. Now what we are doing is saying our interim is going to be someone that is not completely certified. Here was someone we all knew and liked." DeRoche, "This is temporary. If we were going to hire someone full-time that didn't have his certification, that would be different."

**Voss made a motion to authorize the City Administrator to work with Linwood Township to work out an agreement to contract with their Building Official and work out arrangement on response time. DeRoche seconded. Moegerle and Lawrence, nay; Boyer, DeRoche and Lawrence, aye; motion carries.**

**Boyer made a motion to set a special meeting for Wednesday, June 13, 2012 at 5:00 pm to approve a job description and advertisement for a building official. Voss seconded;**

**all in favor, motion carries.**City Billboard  
Sign

Davis explained that Since 2006 the City Billboard at the intersection of Viking Boulevard and Hwy. 65 has experienced severe wind damage in May of 2007 at repair cost of \$639, February 2008 at a repair cost of \$4,788 and October 2010 at a repair cost of \$5,038. In the previous two instances the acrylic panels have been blown out and the electrical system of the sign has been severely damaged. Even though insurance covered the repair costs in 2008 and 2010, there was a \$1,000 deductible charge for each of these claims. The estimate to repair the current damage is \$3,890 plus any electrical work that may be required.

The current sign's design makes it vulnerable to damage from high winds and significant rainfall events and the damage done by the storm of May 27, 2012 will not be the last of these claims. The other problems, aside from the damage issues associated with the current sign, are the need for manually changing the messages and the limits as to the number messages and the space devoted to their display. There is also a safety and a manpower resource issue with assigning personnel to physically change each and every message that is displayed on the board.

Due to the limitations of the current billboard and its continued susceptibility to storm damage, an electronic reader board would be a preferred option. The reader board could be designed to be more aesthetically pleasing than the existing billboard and have the ability to display multiple messages in real time. The reader board would be less likely to be suffer storm damage and could be remotely controlled and programmed from City Hall, enabling instant message changing and eliminating the need for at least 2 to 2 1/2 man hours of staff time for each and every message change.

Should Council determine that a reader board is the accepted alternative for the replacement of the billboard sign, the City sign ordinance would need to be amended to exempt public signs from conditions of the ordinance. Our City Attorney has indicated that many cities in drafting code provisions distinguish and differentiate public signage from commercial or private signage. We could consider defining "public signage" as that owned and maintained by the city for directing the public to city owned facilities or for publicizing information for local government announcements, public services or other matters of civic interest. Most cities generally have one such sign for community notices and an ordinance revision may need to include this as a consideration. Even though this may be construed by others to be a double standard as to the application of the ordinance, there is a separate and unique distinction between a public sign that is intended for disseminating matters of City interest as opposed to a private sign meant for advertising or sale purposes.

There is no lease on the property where the existing sign is located. Ms. Ardis Hoffman owns the property and has indicated she would be willing to sign a lease for a new sign. Regardless of the decision on replacement of the existing sign, it would be advisable to enter into a lease agreement with Ms. Hoffman if a sign is to remain at this location.

The cost of a new reader board with architectural amenities is estimated to be in the \$75,000 to \$100,000 range. There is currently \$50,000 in the 2012 EDA budget and a preliminary request for \$45,000 for 2013 EDA budget for a reader board sign. If approval is granted by City Council to replace the existing sign with a new reader board an inter-fund no interest loan can be extended from our HRA account to cover those costs of the sign above \$50,000. The balance would be repaid from the 2013 EDA budget.

The East Bethel Seniors have pledged \$5,000 toward a reader board and the City has filed a claim with the LMC for the damages to the sign. The amount of the claim payment from the League is pending their approval of the repair estimates and is subject to a \$1,000 deductible. This proposal will be submitted to the EDA at their June 27, 2012 meeting for their recommendation.

Staff is requesting approval from City Council to solicit designs and proposals to replace the existing billboard sign with a reader board to be located at the current location of Viking Boulevard and Hwy. 65.

Voss said it will reduce risk because you will not have staff climbing ladders. Moegerle, "And we will also be saving labor time."

**Moegerle made a motion to direct staff to solicit designs and proposals to replace the existing billboard sign with a reader board to be located at the current location of Viking Boulevard and Hwy. 65 and continue working with Ms. Hoffman regarding a lease agreement for the sign location. Lawrence seconded.**

Voss asked we are going to get the repairs estimated? We don't have to use it to repair? Davis, "That is correct." Voss said the motion to get proposals. Are we going to get architectural designs? Davis, "We will get proposals from a couple companies." DeRoche, "Have we looked at others?" Davis, "This is just an example of what one can look like. We will contact other companies." Boyer said I don't mind you contacting companies to see what these cost. But I think we have other things that we should be using EDA money for. Such as contacting land owners. Voss said he thinks Ham Lake got to \$60,000 in fundraising. The business community was directly involved. DeRoche, "Agree we need a sign, but have a hard time spending \$100,000 on a sign." Moegerle, "We can also contact the Lions and Lioness to see if they will donate again like they did for the current sign." **All in favor, motion carries.**

Council  
Reports –  
DeRoche

DeRoche, "The Fire Department has been busy. They went up and dealt with the Sartell fire. Good training for our guys. I expressed my concerns about the lakes. Ask that people if going to be moving your boat around, clean it. Did attend the Hilly Billy Hoedown,"

Council  
Reports –  
Moegerle

Moegerle, "I did contact the editor of St. Francis Courier and I said, "I see articles from St. Francis, Bethel, and others, why are there no articles in there about East Bethel." And the answer was "All you have to do is submit them by the 15<sup>th</sup> of the month." We can do a column from the Mayor or City Administrator. Seems to me an excellent way to get some information, a brief summary as part of communication. I don't think there is a cost to it. I have done some more reading and research on EDA, mainly on water parks and conference centers and whether we are far enough from Valley Fair to draw from."

Council  
Reports –  
Lawrence

Lawrence, "Been to so many quick little meetings. GRE is almost wrapped up. Water Tower is going to be getting letters."

Closed  
Session –  
GRE  
Settlement

Vierling explained that for the benefit of the public and the public record, Council has recommended we go into closed session per Minnesota Statute 13D regarding a matter of litigation, Great River Energy (GRE) vs. the City of East Bethel, District Court File # 02-CV-115638. After the closed session, Council will return into open session to announce any

motions or actions.

**DeRoche made a motion to go into closed session to discuss Great River Energy vs. the City of East Bethel. Moegerle seconded. Boyer, nay; DeRoche, Lawrence, Moegerle and Voss, aye; motion carries.**

Vierling explained the Council has concluded the closed session dealing with Great River Energy vs. the City of East Bethel. Attending were special Counsel Jim Strommen, Council Member DeRoche, Council Member Voss, Council Member Moegerle and Mayor Lawrence. There was no participation by Council Member Boyer. Also attending were Jack Davis, City Administrator and myself, City Attorney. Council got input but no vote was taken.

**DeRoche made a motion to direct litigation legal counsel and the city administrator to finalize the settlement agreement and mutual release consistent with the direction provided by this Council in closed session and give authority to the Mayor and city administrator to enter into such agreement if legal counsel and the city administrator approve the agreement consistent with our direction. Moegerle seconded; all in favor, motion carries.**

Adjourn

**Voss made a motion to adjourn at 10:19 PM. Moegerle seconded; all in favor, motion carries.**

Attest:

Wendy Warren  
Deputy City Clerk

## EAST BETHEL SPECIAL CITY COUNCIL WORK MEETING

May 31, 2012

The East Bethel City Council met on May 31, 2012 at 8:00 AM for a special meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Steve Voss

MEMBERS EXCUSED: Bill Boyer Heidi Moegerle

ALSO PRESENT: Jack Davis, City Administrator

Call to Order **The May 31, 2012 City Council special meeting was called to order by Mayor Lawrence at 8:10 AM.**

Adopt Agenda **Voss made a motion to adopt the May 31, 2012 City Council special meeting agenda. DeRoche seconded; all in favor, motion carries.**

Review and Approve GRE/ East Bethel/ Athens Amended Route Agreement Davis explained that as a condition of Athens Township's approval of the GRE transmission line Route change from Route A to what is described as Route E-1 in Athens and to correspond to the amended Route I-1 in East Bethel as approved by the East Bethel City Council on May 16, 2012, the East Bethel City Council needs to approve the attached agreement that specifies the obligations of the City that are required for Athens' consideration of the route change. These obligations are:

1. The common road improvements for 245<sup>th</sup> Avenue, a shared boundary street with Athens Township; and
2. The agreement to not initiate annexation proceedings concerning lands within Athens Township for a period of 25 years.

Upon approval by the City of East Bethel, this agreement will be sent to Athens Township for their approval on June 4, 2012. Both the approval of the City and the Township will be contingent on GRE's approval of this agreement.

At this time we are going conference call our City Attorney, Mark Vierling. There have been some late additions to the agreement and we will ask him to explain them.

Voss asked none of these changes affect the City of East Bethel's agreement with Athens' Township right? Davis said that is correct.

**Voss made a motion to direct the Mayor and City Administrator to approve and sign agreement as presented in our packet. Mark Vierling, City Attorney, joined the meeting via telephone. DeRoche seconded.**

Davis asked the City Attorney to give an overview of the three documents that they have before them. Vierling, "The first document I will discuss is the Jim Strommen draft of the document titled Settlement Agreement - Mutual Release. That is the document that is signed and executed between the City of East Bethel and GRE. Determines route selection, dismisses the lawsuit, and provides for the issuance of the amended CUP, otherwise references as part of Paragraph 5 that the City has an agreement with Athens based on the approval of this that they will not annex any part of Athens or initiate annexation for a period of 25 years. This document is really between GRE and the City of East Bethel at this time, Athens is not a signatory on this one. Because it dismisses the lawsuit of which Athens is not a party. We did put the one provision in there on non-annexation for 25 years as Athens was wanting to see that in the stipulation and having it be court approved because they were afraid an agreement on that issue standing alone might not be

enforceable.”

Vierling, “GRE-Athens-East Bethel Agreement, this agreement is the one that Athens wanted to have one agreement in their hands that had all of the terms and provisions for Athens from both GRE and East Bethel in terms of what the deal is. This was generated by Athens counsel. The one does have provisions for signatories for all three entities. You will see what the arrangements are for GRE with Athens and for the road work and all the exchanges with the three entities.”

DeRoche, “I can see GRE and the City of East Bethel having an agreement, but why is that Athens business?” Vierling, “It becomes Athens business because part of the deal for them is that there was an offer made by GRE that if they would approve the route, that GRE would provide work to them in terms of field work and maintenance of them. Pay them some compensation. So what they were looking for, is up until they had this agreement they had a letter from Jack Davis, city administrator saying we would do the following road work, they had a separate letter from GRE here’s what we will do for you. And they wanted one document signed by all three entities that listed out the entirety of the deal. So that they would have one place to look for the entire transaction. That is really the purpose of that document. I will tell you that GRE has some language changes that they want to implement in that. We have done some language changes and may have more. For all practical purposes that is what Athens came up with. GRE said yesterday that they had some problems with how that was drafted, and we don’t know when GRE is going to sign it. So, Jack thought it might be a good idea to have on just between Athens and East Bethel.”

Vierling, “That is the third document that you have and it is titled Athens – East Bethel. This is drafted only to deal with our arrangements with Athens only if we need to have something to solidify or submit with Athens what our deals are with them to calm their nerves over there. And it lists the two commitments we have to them with regard to the not going forward with annexation proceedings and the re-grading on the two streets. Really the purpose of that is because we are sensing that Athens has become increasingly frustrated. That agreement is expressly conditioned on route approval and dismissal of the GRE lawsuit. Really all three documents inter-relate to the same transaction.”

Lawrence, “On the first agreement, Jim Strommen’s, it talks about Inadequacies in Pay is that a sticking point?” Vierling, “Jim put that together waiting for GRE. Don’t think it is a sticking point, just think it is a reference that there are other commitments that have been made to Athens in this matter by both GRE and the City.” Lawrence, “From a legal standpoint, how comfortable are you with these documents being signed and passed? Vierling, “I am very comfortable with the “Stipulation” and also comfortable with the “GRE-Athens-East Bethel” document understanding that GRE is probably going to want to wordsmith that one further. But in terms of the East Bethel section of that document, I don’t have any issues with it. Jack wants to have some language in there about 245<sup>th</sup> Avenue indicating it is a shared and common street between the two communities. That is certainly a reference point it doesn’t change any substance. So I am fine with the documents. Although we are still waiting for GRE to finish their wordsmithing and commit to signing the documents.”

Voss said he thought the intention was to give Athens a formal document between the City of East Bethel and Athens with regards to the road and annexation. Isn’t that what Athens is looking for right now, assurance from us? Vierling, “Athens statement is they are looking for the document that is comprehensive, the one that is GRE-Athens-East Bethel. They want the document that spells out not only our commitments to them, but also GREs commitments to them.” Voss said but as I understand it, there is confusion over the agreement between GRE and Athens. Vierling, “There is confusion over sections in that deal with GRE and Athens. But in

terms of your approval, I think you can approve the sections that deal with East Bethel's commitments to Athens and then allow the mayor and city administrator to sign off on any document that solidifies or finalizes the action between GRE and Athens because other than we want them to enter into it the terms of those we are not involved."

Voss said it would seem to me if we are going to approve a document and it is going to be changed, we are going to have to reapprove the document anyways. Vierling, "I think you can approve the document relative to the East Bethel sections and then allow the mayor and the city administrator to execute the final document as long as those terms are not changed." Voss said so if the whole GRE thing is way off base, the document could change. Vierling, "I think the document could change. The critical points are your commitment to Athens in terms of what you are going to do. The route selection and the agreement that nothing goes forward unless the case gets dismissed. Your input on the Athens three way documents and our simplified Athens-East Bethel document have those terms in there. Those are your critical terms. If GRE renegotiates how many dollars they throw into a ball park in Athens or how much work they put into an Athens entity does East Bethel care?" DeRoche and Voss both said no.

Voss asked why don't we just approve the Athens-East Bethel agreement then? Vierling, "Because we have that as kind of a backdrop if we really need it. Athens expressed preference to have a comprehensive document that deals with all of the commitments to them from East Bethel and GRE." Voss said if we approve the Athens-East Bethel agreement that goes to Athens that solidifies the agreement between Athens and East Bethel. They still have to work out the details between Athens and GRE. Athens would then approve that agreement and it would have to come back and be signed by East Bethel anyways. Lawrence, "Would that have to come back to East Bethel? Or would that just be an amendment to GRE's agreement?" Vierling, "They would actually have that as a separate agreement between them and GRE, which we would not have to sign off on. But in the last several days they have expressed that they would like this in one document between all parties."

Vierling, "I am perfectly okay with you approving the Jim Strommen draft "Settlement Agreement" document. I am also okay with you approve the "Athens-East Bethel" document. Also, you can approve the Athens-East Bethel-GRE document contingent on those features being working out between the two of them as long as it doesn't alter the critical features to East Bethel which is the dismissal, route selection and the commitment was have to Athens."

**Voss amended his motion to replace the document with the Athens-East Bethel agreement that was presented this morning.**

Voss asked the Agreement that was presented and the GRE-Athens-East Bethel are they pretty much the same? Davis, "The difference is the GRE-Athens-East Bethel includes how GRE contributes financially to Athens. Page 2, section 7." Voss asked are these the same documents just a different title? Davis, "Yes."

Voss said he doesn't want to approve the settlement agreement, because he hasn't gone through it. Davis, "Athens is getting very nervous about this whole situation. That it may fall through and people will not follow through on their commitments. His recommendation would be to at least approve the GRE-Athens-East Bethel Agreement and Athens-East Bethel Agreement."

**Voss amended his motion to have the city enter into an agreement based on these agreements titled "Athens-East Bethel Agreement" and "GRE-Athens-East Bethel Agreement. DeRoche seconded.** Vierling, "I expect that people just want more time to look over the other agreement, so if is okay we will be bringing that back to you. Davis, "We can add that to the June 6<sup>th</sup> agenda. Also, in Item #3 the description of route we need to define it clearer.

May 31, 2011

East Bethel City Council Special Meeting

Page 4 of 4

Route I-1 in East Bethel and Route E in Athens. This is in the GRE Athens East Bethel Agreement.” **All in favor, motion carries.**

Adjourn **Voss made a motion to adjourn at 8:44 AM. DeRoche seconded; all in favor, motion carries.**

Attest:

Wendy Warren  
Deputy City Clerk

DRAFT



**CITY OF EAST BETHEL, MINNESOTA  
CONTRACTUAL CITY ASSESSOR**

The City of East Bethel is requesting proposals for a contractual assessor for a 3 year term beginning January 1, 2013. The assessor will be responsible for performing fair and equitable assessments of real property within the City. The assessor will be housed off-site and will be responsible for arranging a data connection with Anoka County and providing other normal office furnishings such as computers, telephones, file cabinets, etc. All records created with regard to this contract, e.g., cards, photos, reports, etc. become the property of the City. Access to these records must be provided when requested by City officials.

The City currently has 5,719 parcels as follows:

- 4,616 classified residential parcels
- 251 classified commercial and industrial parcels
- 269 classified apartments and manufactured home accounts
- 199 classified agricultural, railroad and utility parcels
- 12 classified personal property accounts
- 372 classified non-taxable parcels

The minimum designation from the Board of Assessors required for the position is Accredited Minnesota Assessor. Factors to be considered in the evaluation of proposals submitted include demonstration of the ability to perform the following functions; demonstration of the listed capabilities and the possession of the referenced skills.

Functions to be performed by the contract assessor:

- Maintain accurate records, provide reports, and prepare requested analyses for City staff as required.
- Develop and maintain positive public relations with City of East Bethel Council Members, City employees and the public.
- Attend the Board of Review and assist the Board in every way possible to enable it to perform its duties. This includes furnishing the Board with all necessary charts, tables, comparisons, and data which it may require in its deliberations and performing investigations that the Board may desire to arrive at a fair market value.
- Develop and adjust assessment policies and methodologies when necessary to ensure compliance with legislative changes, legal requirements and administrative direction.
- Provide projections on the future impact of legislative changes, tax base changes, etc.
- Define and organize the procedure to reevaluate a quintile annually.
- Analyze property sales through the use of regression analysis and/or other methodologies.
- Analyze valuation data of commercial, industrial and apartment property.
- Verify and analyze all sales and ratio studies.
- Review and report on the validity of tax petitions.
- Coordinate and participate in tax assessment litigations.
- Serve as a technical resource for City staff and the public.
- Serve as a witness in court cases when required.

- Prepare an annual assessment report prior to the assessment valuation notices updating City staff on changes in the last market year.

Desired capabilities of a contractual assessor include:

- Considerable ability to communicate complex information tactfully and effectively both orally and in writing with state regulatory agencies, county regulatory agencies, elected officials, City staff, and the general public.
- In-depth knowledge of accepted principles, methods, and techniques of property appraisal.
- In-depth knowledge of all laws and regulations pertinent to local tax assessments.
- In-depth knowledge of appraisal terminology and practices.
- Considerable knowledge of building construction and remodeling costs.
- In-depth knowledge of real estate property values and land economics.
- Considerable ability to perform mathematical calculations, analyze data, and prepare meaningful reports.
- Considerable knowledge of computerized assessment systems, specifically the system in place in Anoka County.

Desired skills of a contractual assessor include:

- Knowledge of spreadsheet software applications.
- Ability to develop analyses using spreadsheet software applications.
- Ability to develop presentations for the Board of Review and other audiences.

Please provide at least three references from non-related entities that would be willing to discuss their experiences with you and would be able to substantiate information presented in your proposal.

The City reserves the right to accept or reject any and all proposals and to waive any irregularities. This is a request for proposal and the City reserves the right to negotiate with any party and on any matter and to select an assessor based on any combination of criteria deemed appropriate by the City. The selected assessor will be required to enter into an appropriate written agreement with the City regarding the services to be provided.

All costs associated with the preparation of a proposal in response to the RFP shall be the responsibility of the assessor or firm submitting the proposal.

Please forward information demonstrating how your background matches the listed, desired attributes along with a cost proposal to:

Fiscal Services Director  
City of East Bethel  
2241 221<sup>st</sup> Avenue N.E.  
East Bethel, MN 55011

Proposals will be accepted until 3:00 p.m. local time, July 20, 2012 and will become the property of the City of East Bethel. Please contact the Fiscal Services Director with any questions regarding this process.



**REQUEST FOR PROPOSAL  
Insurance Agency/Agent Services**

The City of East Bethel, Minnesota is accepting proposals from Minnesota-licensed insurance agencies for workers compensation and property/casualty insurance agent services until 3:00 p.m. on Friday, July 20, 2012.

Proposals shall be directed to:

Fiscal Services Director  
City of East Bethel  
2241 221<sup>st</sup> Avenue N.E.  
East Bethel, MN 55011

Questions regarding the specific work included in this agreement should be directed to Rita Pierce at 763-367-7852. Proposals must be received before 3:00 p.m. on July 20 2012.

The selected agency will be retained on a fee basis and will be asked to provide services to the City in several areas as described in the specifications. For purposes of comparison, agencies should assume the attached insurance and premium summary is accurate. Also, assume that a minimum three-year agent of record relationship is anticipated, except for unsatisfactory service or for circumstances beyond our control.

The City of East Bethel has historically used the League of Minnesota Cities Insurance Trust for workers compensation and property/casualty insurance coverage. The City has not actively pursued proposals from other carriers and will not unless a preferable program develops. The City would not expect its agent to go out for quotes on an annual basis.

Please complete the following questionnaire and return it as directed above.

Enclosures: Agency services, experience and qualifications, and fee for services questionnaire  
Sample agreement for professional services  
Insurance and premium summaries

**AGENCY SERVICES, EXPERIENCE AND QUALIFICATIONS, AND FEES FOR SERVICES**

Name of Licensed Agent \_\_\_\_\_

Name of Agency \_\_\_\_\_

Address \_\_\_\_\_

Contact Person \_\_\_\_\_

Telephone \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Agent is licensed in the State of Minnesota for all property-casualty and workers compensation insurance lines.

YES NO (If "NO" you are not eligible to compete for this service agreement.)

Agent has at least five years of continuous experience with business or commercial insurance; briefly describe your experience.

YES NO

Comments \_\_\_\_\_

\_\_\_\_\_

Agent has experience with at least one other governmental unit (city, county, school district, etc.) of similar size and volume within the past two years. Please identify the governmental unit(s).

YES NO

Comments \_\_\_\_\_

\_\_\_\_\_

Agent is willing to provide services on a fee basis rather than commission basis.

YES NO

Comments \_\_\_\_\_

Agent has insurance agents' errors and omissions policy of a least \$2 million per occurrence/\$2 million aggregate and has provided the name of the provider and coverage level.

Name of policy provider \_\_\_\_\_

Level of coverage per occurrence \_\_\_\_\_

Agency currently has contract with at least one insurer actively writing governmental risks.

YES NO

Comments \_\_\_\_\_

Agent/Agency Premium Lines:

Personal Lines \$ \_\_\_\_\_ (Volume) Governmental \$ \_\_\_\_\_ (Volume) Commercial \$ \_\_\_\_\_ (Volume)

Please provide names, years of experience, professional designation or education for the following:

Agents available to service this risk:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Administrative or technical personnel available to service this risk:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Loss control engineers and inspectors, property appraisers, claims adjusters, etc.:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Please provide company name, contact name, and phone number for the following:

Companies represented through direct agency contracts:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Other governmental risks written by you in the last five years; please provide name of the governmental unit, address and contact person:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_

Are there any other special qualifications or agency/company resources that make you especially qualified for consideration?

\_\_\_\_\_

\_\_\_\_\_

**Indicate your ability and willingness to provide the following services and specify which services are included in your stated fee amount. Please specify any additional fees for services not covered by your stated fee amount.**

Negotiation and placement of all the required insurance:

YES NO

Fee \$ \_\_\_\_\_

Information and advice on relevant changes in insurance markets, products, and services:

YES NO

Fee \$ \_\_\_\_\_

Assistance in developing a comprehensive insurance program:

YES NO

Fee \$ \_\_\_\_\_

Insurance policy inventory and summary:

YES NO

Fee \$ \_\_\_\_\_

Loss exposure list and classification, updated annually:

YES NO

Fee \$ \_\_\_\_\_

Assistance on all claims and losses with carrier and third parties:

YES NO

Fee \$ \_\_\_\_\_

Assistance in minimizing premiums; reviewing and auditing rating basis, formulas, etc.:

YES NO

Fee \$ \_\_\_\_\_

Assistance with loss prevention and control:

YES NO

Fee \$ \_\_\_\_\_

Provide/review and update annually property appraisals, dependent upon insurance company selected:

YES NO

Fee \$ \_\_\_\_\_

Attendance at loss control committee meetings if requested:

YES NO

Fee \$ \_\_\_\_\_

Maintain an up-to-date property and equipment schedule and provide it to us on an Excel spreadsheet:

YES NO

Fee \$ \_\_\_\_\_

Provide a breakdown of property and liability premiums by location and/or department:

YES NO

Fee \$ \_\_\_\_\_

Provide assistance with application renewals and expenditure worksheets as requested:

YES NO

Fee \$ \_\_\_\_\_

Review workers compensation claims, verify established reserves, analyze modification factor:

YES NO

Fee \$ \_\_\_\_\_

Conduct an exposure survey:

YES NO

1st year fee: \$ \_\_\_\_\_

2nd year fee:\$ \_\_\_\_\_

Drafting insurance specifications to meet our needs:

YES NO

1st year fee: \$ \_\_\_\_\_

2nd year fee:\$ \_\_\_\_\_

Obtain quotes and make recommendations:

YES NO

1st year fee: \$ \_\_\_\_\_

2nd year fee:\$ \_\_\_\_\_

Review policies, billings, claims, etc.:

YES NO

1st year fee: \$\_\_\_\_\_

2nd year fee:\$\_\_\_\_\_

Assist in loss control program in addition to insurer services:

YES NO

1st year fee: \$\_\_\_\_\_

2nd year fee:\$\_\_\_\_\_

Update insurable values:

YES NO

1st year fee: \$\_\_\_\_\_

2nd year fee:\$\_\_\_\_\_

Please provide the fees per hour for the following:

Principals: \$\_\_\_\_\_

Associates and technical: \$\_\_\_\_\_

Clerical support: \$\_\_\_\_\_

**Please provide company name, total agency property/casualty premium with the insurer, and total agency property/casualty premium on public bodies for anticipated markets or companies with direct agency contracts willing to write public bodies:**

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

**SAMPLE AGREEMENT FOR PROFESSIONAL SERVICES**

This agreement is made on the \_\_\_\_ day of \_\_\_\_\_, 2012, between the City of East Bethel and \_\_\_\_\_, whose business address is \_\_\_\_\_.

**PRELIMINARY STATEMENT**

The City has adopted a policy regarding the selection and hiring of contractors to provide a variety of professional services for City projects. That policy requires that persons, firms, or corporations providing such services enter into written agreements with the City. The purpose of this Agreement is to set terms and conditions for the provision of insurance agent/broker services by the Contractor for the City.

The City and Contractor agree as follows:

1. Contractor's Services. The Contractor agrees to provide professional services as described in Exhibit \_\_\_\_, attached and made a part of this Agreement.
2. Time for Performance of Services. The Contractor shall perform the services outlined in the work program on as-needed basis, except for the following services:
  - a. Renewal applications shall be completed and submitted not less than 45 days before the policy expiration date, and
  - b. Policies shall be delivered to the city by the Contractor not less than 30 days after the policy's inception date.
3. Compensation for Services. City agrees to pay the Contractor for services as described in Exhibit \_\_\_\_, attached and made a part of this Agreement.
4. Method of Payment. The Contractor shall submit itemized bills for services provided to the City on a monthly basis. Bills submitted shall be paid in the same manner as other claims made to the City.

For work reimbursed on an hourly basis, the Contractor shall indicate for each employee, his or her name, the number of hours worked, rate of pay for each employee, a computation of amounts due for each employee, and the total amount due. Contractor shall verify all statements submitted for payment in compliance with Minnesota Statutes Sections 471.38 and 471.391.

For reimbursable expenses, if permitted in Exhibit \_\_\_\_, the Contractor shall provide such documentation as reasonably required by the City.

5. Audit Disclosure. The Contractor shall allow the City or its duly authorized agents reasonable access to such of the Contractor's books and records as are pertinent to all services provided under this Agreement. Any reports, information, data, etc. given to, prepared or assembled by the Contractor under this agreement that the client requests to be kept confidential shall not be made available to any individual or organization without the City's prior written approval. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the Contractor shall become the property of the

City upon termination of this agreement, but Contractor may retain copies of such documents as records of the services provided. The City agrees that the Contractor is the sole owner of and the City has no right to:

- a. proprietary computer programs
- b. proprietary procedures, and
- c. underwriting and client files developed by contractor.

6. Term. The term of this Agreement shall be from \_\_\_\_\_ through \_\_\_\_\_, the date of signature by the parties notwithstanding. This agreement may be extended upon the written mutual consent of the parties for such additional period as they deem appropriate, and upon the terms and conditions as herein stated.
7. Termination. This Agreement may be terminated by either party by seven days written notice delivered to the other party at the address written above. Upon termination under this provision if there is no fault of the Contractor, the Contractor shall be paid for services rendered and reimbursable expenses incurred until the effective date of termination. If however, the City terminates the Agreement because the Contractor has failed to perform in accordance with this agreement, no further payment shall be made to the Contractor, and the City may retain another contractor to undertake or complete the work identified in paragraph 1. If as a result, the City incurs total costs for the work (including payments to both the present contractor and a future contractor) which exceed a maximum Agreement amount, if any, specified in paragraph 3, then the Contractor shall be responsible for the difference between the cost actually incurred and the agreement amount.
8. Subcontractor. The Contractor shall not enter into subcontracts for any of the services provided for in this agreement without the express written consent of the City.
9. Independent Contractor. At all times and for all purposes hereunder, the Contractor is an independent contractor and not an employee of the City. No statement herein shall be construed so as to find the Contractor an employee of the City.
10. Assignment. Neither party shall assign this agreement or any interest arising herein without the written consent of the other party.
11. Services not provided for. No claim for services furnished by the Contractor not specifically provided for herein shall be honored by the City.
12. Severability. The provisions of this agreement are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of the agreement.
13. Entire Agreement. The entire agreement of the parties is contained herein. This agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter hereof as well as any previous agreements presently in effect between the parties relating to the subject matter hereof. Any alterations, amendments, deletions, or waivers of the provisions of this agreement shall be valid only when expressed in writing and duly signed by the parties, unless otherwise provided herein.
14. Compliance with laws and regulations. In providing services hereunder, the Contractor shall abide by all statutes, ordinances, rules and regulations pertaining to the provision of services to be provided. Any

violation shall constitute a material breach of this agreement and entitle the City to immediately terminate this agreement.

15. **Equal Opportunity.** During the performance of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, marital status, status with regard to public assistance, disability, or age. The Contractor shall post in places available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause and stating that all qualified applicants will receive consideration for employment. The Contractor shall incorporate the foregoing requirements of this paragraph in all of its subcontracts for program work, and will require all of its subcontractors for such work to incorporate such requirements in all subcontracts for program work.
16. **Waiver.** Any waiver by either party of a breach of any provisions of this agreement shall not affect, in any respect, the validity of the remainder of this agreement.
17. **Indemnification.** Contractor agrees to defend, indemnify and hold the City, its officers, and employees harmless from any liability, claims, damages, costs, judgments, or expenses, including reasonable attorney's fees, resulting directly or indirectly from an act or omission (including without limitation professional errors or omissions) of the Contractor, his agents, employees, or contractors in the performance of the services provided by this agreement and against all losses by reason of the failure of said Contractor fully to perform, in any respect, all obligations under this agreement.
18. **Insurance.** During the term of this agreement, Contractor shall maintain a general liability insurance policy with limits of at least \$2,000,000 for each person, and each occurrence, for both personal injury and property damage. This policy shall name the City as an additional insured for the services provided under this agreement and shall provide that the Contractor's coverage shall be the primary coverage in the event of a loss. The policy shall also insure the indemnification obligation contained in paragraph no. 17. If the Contractor is providing either architectural or engineering services, the Contractor must also maintain during the term of this Agreement a professional liability insurance policy with limits of at least \$2,000,000 for each person, and each occurrence, for both personal injury and property damage. This policy shall also insure the indemnification obligation contained in paragraph no. 17. A certificate of insurance on the City's approved form which verifies the existence of these insurance coverages must be provided to the City before work under this agreement is begun.
19. **Governing Law.** This agreement shall be controlled by the laws of the State of Minnesota.
20. Contractor shall use its best efforts to secure any insurance required for the proper administration of the City. In the event an insurance company cancels or refuses to place any necessary insurance, contractor shall use its best efforts to obtain insurance from another insurer.

Executed as of the day and year first written above.

CITY OF EAST BETHEL:

CONTRACTOR: \_\_\_\_\_

By: \_\_\_\_\_  
Title

By: \_\_\_\_\_  
Title

Signature:  
\_\_\_\_\_

Signature:  
\_\_\_\_\_

LMCIT PREMIUM BREAKDOWN

DATE: 05/09/2012

Coverage Period: 1/05/2012 -  
01/05/2013

TO: \_\_\_\_\_

CITY OF: EAST BETHEL, CITY OF

COVERAGE	AVERAGE RATE	AMOUNT OF COVERAGE	PREMIUM
PROPERTY (Per \$100 Coverage)*	.24953	\$ 12,367,153	\$ 30,860
EQUIPMENT BREAKDOWN COVERAGE		\$ 12,367,153	\$ 1,725
MOBILE PROPERTY(Per \$100 Coverage):			
SCHED.OVER 25,000	.38880	\$ 950,606	\$ 3,696
UNSCHED.25,000 & LESS		\$ 229,259	\$ 1,235
MUNICIPAL LIABILITY		SEE ATTACHED	\$ 29,236
AUTO LIABILITY & PHYSICAL DAMAGE		SEE ATTACHED	\$ 11,844
CRIME-INS IDE/OUT/FORGERY		\$ 250,000	\$
BONDS		\$ 250,000	\$ 394
		TOTAL PREMIUM:	\$ 78,990

\*These AVERAGE RATES are to be used for ESTIMATES of PREMIUM ALLOCATION ONLY

**League of Minnesota Cities Insurance Trust**  
Group Self-Insured Workers' Compensation Plan  
145 University Avenue West St. Paul, MN 55103-2044 Phone (651)215-4173

**Notice of Premium Options for Standard Premiums**

EAST BETHEL & EASTBETHEL FIRE  
2241 221ST AVE NE  
EAST BETHEL MN 55011

Agreement No.: 0200011831  
Agreement Period: From: 1/05/2012  
To: 1/05/2013

Enclosed is a quotation for workers' compensation deposit premium.

PAYROLL DESCRIPTION	CODE	RATE	ESTIMATED PAYROLL	DEPOSIT PREMIUM
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SEE ATTACHED SCHEDULE FOR DETAILS

Manual Premium				45248.
Experience Modification	1.31			14027
Standard Premium				59275
Deductible Credit	0%			
Premium Discount				5156.
Net Deposit Premium				54119.

Jerry Gilmer Construction Inc.

2401 147<sup>th</sup> Lane Ne

Ham Lake, MN 55304

Cell 612 702 6977 Fax 763 754 4038

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**Proposal**

To: City of East Bethel

5/23/2012

Site: Ice Arena

Provide and install new doors. Doors are lettered a-e from west to east on north side of building door e is on south east corner/entrance to Zamboni garage.

a Office entrance	\$1,284.71
b Double exit	\$2,542.61
c Double exit	\$2,689.27
d Single exit	\$1,620.09
e Zamboni entrance	\$1,284.71

TOTAL \$9,421.39  
Less: Office (1,284.71)

Proposal does not include paint or the disposal of old doors and the frames. \$8,136.68

Doors on this proposal will match all doors on south side of building.





# RAK Construction, Inc.

An Affirmative Action, Equal Opportunity Employer

17100 Hwy 65 Suite # 2  
Ham Lake, MN 55304  
Phone (763) 434-4210 Fax (763) 434-8380

DATE June 7, 2012  
Bid # 10109  
Customer ID Ci-Bethel-Nate  
Customer # 763-367-7876  
[nate.ayshford@ci.east-bethel.mn.us](mailto:nate.ayshford@ci.east-bethel.mn.us)

Prepared by: Roxy

**Bid To:**  
City of East Bethel  
2241 221st Ave NE  
East Bethel, MN 55011  
Attn: Nate Ayshford

**RAK Construction purposes to furnish labor and material to complete the work as follows:**

**Ice Arena:**

Description	AMOUNT
<b>Ice Arena:</b>	
1. Remove and replace ( 2 ) pairs of HM doors only with new hardware to match existing system	
2. Remove ( 1 ) single door and replace with new door and hardware to match existing	
3. Paint and disposal by Owner	
Doors and hardware	\$4,955.00
Labor	\$2,360.00
OH&P	\$732.00
<b>TOTAL</b>	<b>\$8,047.00</b>

**Alternate: To remove and replace ( 1 ) door to dock area \$1,375.00**

This proposal may be withdrawn or prices may be subject to change if not accepted within 30 days.

If you have any questions concerning this quotation, contact Randy Pederson 763-434-4210

Yours truly

RAK Construction Inc.

President

[randy.pederson@rakconstruction.com](mailto:randy.pederson@rakconstruction.com)

Thank you for the opportunity to quote this work

**Acceptance of Proposal**

The work described above is approved by:

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**CITY OF EAST BETHEL  
EAST BETHEL, MINNESOTA**

**RESOLUTION NO. 2012-31**

**RESOLUTION ACKNOWLEDGING THE DONATION FROM  
HAKANSON ANDERSON**

**WHEREAS**, the City of East Bethel has received a donation of four Minnesota Twins Tickets valued at \$88.00 from Hakanson Anderson to be used towards the Family Fun Night scheduled for Friday, July 20, 2012.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EAST BETHEL, MINNESOTA THAT:** the City Council of the City of East Bethel acknowledges and accepts the Minnesota Twins Tickets valued at \$88.00 from Hakanson Anderson.

**BE IT FURTHER RESOLVED THAT:** the City Council of the City of East Bethel expresses its thanks and appreciation to Hakanson Anderson for the Minnesota Twins Tickets for Family Fun Night.

Adopted this 20th day of June, 2012 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

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Richard Lawrence, Mayor

ATTEST:

---

Jack Davis, City Administrator

**CITY OF EAST BETHEL  
EAST BETHEL, MINNESOTA**

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HAKANSON ANDERSON**

**WHEREAS**, the City of East Bethel has received a donation of four Minnesota Twins Tickets valued at \$88.00 from Hakanson Anderson to be used towards the Family Fun Night scheduled for Friday, July 20, 2012.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EAST BETHEL, MINNESOTA THAT:** the City Council of the City of East Bethel acknowledges and accepts the Minnesota Twins Tickets valued at \$88.00 from Hakanson Anderson.

**BE IT FURTHER RESOLVED THAT:** the City Council of the City of East Bethel expresses its thanks and appreciation to Hakanson Anderson for the Minnesota Twins Tickets for Family Fun Night.

Adopted this 20th day of June, 2012 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

---

Richard Lawrence, Mayor

ATTEST:

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Jack Davis, City Administrator

## **Recording Secretary Agreement**

This Agreement is between the City of East Bethel, hereinafter the “City”, a municipal corporation under the laws of the State of Minnesota and Jill Teetzel, Recording Secretary, hereinafter the “Recording Secretary.”

### **Section 1. Scope of Services and Responsibilities.**

Basic services, for the purpose of this Agreement, shall include those services generally understood within the field of a recording secretary. The following is a summary and it is not intended to represent the entire scope of work involved, but rather characterize a list of tasks required and not necessarily limited to the following:

1. Recording Secretary shall attend all Parks Commission, Planning Commission, Roads Commission, and Economic Development Authority meetings and record, transcribe and submit the minutes of those meetings to the appropriate departments as designated by the City Administrator.
2. As needed from time to time, the recording secretary shall attend City Council meetings, and sub-committees of the Council, and record, transcribe and submit minutes of those meetings to the appropriate departments as designated by the City Administrator.
3. For Verbatim Minute Taking: The Recording Secretary shall have the ability to produce edited verbatim transcripts in Microsoft Word Format of any City meeting, delivered electronically to the appropriate city department with a turnaround time of 12 o'clock noon, or sooner, of the 6<sup>th</sup> calendar day following the meeting.
4. Minutes shall be prepared within the style and format of the standards of City Council and City commissions.
5. The Recording Secretary shall provide their own laptop or necessary recording equipment at each meeting to take the minutes, and maintain internet and email service in order to facilitate the timetable and needs of the City Commissions. The City shall provide recordings of the meeting (if available) for the recording secretary if requested.
6. If the recording secretary is unable to attend a scheduled meeting due to a vacation, illness, or other emergency, it the responsibility of the recording secretary to notify the Deputy City Clerk in a reasonable time. If absent for a planned event (i.e.: vacation), a two-week notice is required. For an emergency, notify the Deputy City Clerk, as soon as possible.

**Section 2. Time of Performance.** Recording Secretary shall commence August 1, 2012 and end July 31, 2013, unless terminated sooner by either party.

### **Section 3. Compensation.**

1. The City of East Bethel shall pay Recording Secretary the sum of \$20 per clock hour worked for the term of this Agreement.
2. Except as otherwise provided for in this Agreement, the City of East Bethel shall not provide any additional compensation, payment, service or other thing of value to the Recording Secretary in connection with performance of Agreement duties.

### **Section 4. Method and Time of Payment.**

1. Normal billing cycle is 30 calendar days from receipt of an invoice.
2. No payment will be disbursed until a copy of the minutes in draft form has been submitted to the Deputy City Clerk.
3. All invoices must be submitted to the City Administrator, or his designee, for approval. All invoices shall be submitted to:

City of East Bethel  
City Administrator  
2241 221<sup>st</sup> Ave NE  
East Bethel, MN 55011

**Section 5. Termination.** This Agreement may be terminated by either party upon 30 days written notice to the other party for any reason.

**Section 6. Modifications.** The parties may mutually agree to modify the terms of this Agreement. Modifications to this Agreement shall be incorporated into this Agreement by written amendments.

**Section 7. Conflict of Interest.** Recording Secretary covenants that she presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Recording Secretary further covenants that in the performance of this Agreement no person having any such interest shall be employed.

**Section 8. Findings Confidential.** To the extent permitted, or required by law, any reports, information, data, etc. given to or prepared or assembled by Recording Secretary under this Agreement which the City of East Bethel requests or is required by law to be kept confidential shall not be made available to any individual or organization by Recording Secretary without the prior written approval of the City Administrator in his capacity as the City's Information Officer.

### **Section 9. Independent Contractor.**

Nothing contained in this Agreement is intended or should be construed as creating the relationship of

copartners of joint venturers within the City. No employment, tenure or any rights or benefits, including Workers' Compensation, Unemployment Insurance, medical care, sick leave, vacation leave, severance pay, PERA, or other benefits available to City employees, shall accrue to the Contractor or employees of the Contractor performing services under this Agreement.

**Section 10. Subcontracting and Assignment.**

Contractor shall not enter into any subcontract for performance of any services contemplated under this Contract without the prior written approval of the City and subject to such conditions and provisions as the City may deem necessary. The Contractor shall be responsible for the performance of all subcontractors.

**Section 11. Processing of Payments.**

Prior to the processing of any and all payments to the Contractor pursuant to this Contract, compliance with East Bethel Finance Department regulations on the completion and filing of W-9 forms and other IRS and Minnesota Department of Revenue taxing forms is required.

**Section 12. Records-Availability and Retention.**

The Contractor agrees that the City or any of their duly authorized representatives at any time during normal business hours and as often as they may reasonably deem necessary, shall have access to and the right to examine, audit, excerpt, and transcribe any books, documents, papers, records, etc., which are pertinent to the accounting practices and procedures of the Contractor and invoice transactions relating to this Agreement.

**For the City of East Bethel:**

\_\_\_\_\_  
Richard Lawrence, Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Jack Davis, City Administrator

\_\_\_\_\_  
Date

**For Recording Secretary:**

\_\_\_\_\_  
Jill Teetzel, Recording Secretary

\_\_\_\_\_  
Date



# City of East Bethel City Council Agenda Information

\*\*\*\*\*

**Date:**

June 20, 2012

\*\*\*\*\*

**Agenda Item Number:**

Item 8.0 B.1

\*\*\*\*\*

**Agenda Item:**

Planning Commission Meeting Minutes for May 8, 2012

\*\*\*\*\*

**Requested Action:**

Information Only

\*\*\*\*\*

**Background Information:**

Information Only. These minutes are in draft form. They have not been approved by the Planning Commission.

\*\*\*\*\*

**Fiscal Impact:**

None

\*\*\*\*\*

**Recommendation(s):**

Information Only

\*\*\*\*\*

**City Council Action**

Motion by:\_\_\_\_\_

Second by:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Vote Yes:\_\_\_\_\_

Vote No:\_\_\_\_\_

No Action Required:  X

## EAST BETHEL PLANNING COMMISSION MEETING

May 8, 2012

The East Bethel Planning Commission met on May 8, 2012 at 7:05 P.M for their regular meeting at City Hall.

MEMBERS PRESENT: Brian Mundle, Jr. Lorraine Bonin Tanner Balfany  
Lou Cornicelli Eldon Holmes Glenn Terry Joe Pelawa

MEMBERS ABSENT:

ALSO PRESENT: Stephanie Hanson, City Planner  
Heidi Moegerle, City Council

### Adopt Agenda

Chairperson Mundle called the May 8, 2012 meeting to order at 7:05 P.M.

**Mundle motioned to adopt the May 8, 2012 agenda. Balfany seconded; all in favor, motion carries.**

**Public Hearing/  
Preliminary Plat  
A request by owner,  
Curt Strandlund, CD  
Properties North, for a  
Preliminary Plat to  
create two (2)  
commercial lots and  
one (1) outlot known as  
Classic Commercial  
Park 2<sup>nd</sup> Addition,  
187<sup>th</sup> Lane NE and  
Ulysses Ave. NE,  
East Bethel, MN  
55011. The Zoning  
Classification is B-3  
Highway Business.**

### Property Owner/Applicant:

Curt Strandlund  
CD Properties North  
18542 Ulysses St. NE  
East Bethel, MN 55011

### Property Location:

187<sup>th</sup> Lane NE and Ulysses Street  
East Bethel, MN 55011  
B3 Highway Commercial District

Mr. Strandlund is requesting preliminary plat approval for the subdivision known as Classic Commercial Park 2<sup>nd</sup> Addition. The plat is 19.46 acres and is being proposed to be developed into two (2) commercial parcels and one (1) outlot (to be further divided in the future).

All parcels meet the requirements set forth by the zoning ordinance and are as follows:

### Lot 2, Block 1

Lot Size: 4.43 acres  
Lot Width: 369 feet  
Buildable Area: 4.43 acres  
Municipal Sewer and Water Availability

### Lot 1, Block 2

Lot Size: 6.06 acres  
Lot Width: 376 feet  
Buildable Area: 6.06 acres  
Municipal Sewer and Water Availability

**Outlot A**

Lot Size: 8.97 acres

Buildable Area: 8.97 acres

Classic Commercial Park is bordered by residential property to the west and commercial property to the north, south, and east. The main ingress/egress from the development is from 187<sup>th</sup> Lane NE and Ulysses Street. Ulysses will be extended approximately 300 feet to the north to access the new commercial parcels. The existing temporary cul-de-sac easement will be vacated and a new temporary cul-de-sac easement will be recorded. The easement will remain in place until such time as Ulysses is further extended to the north. The street will be required to be constructed to meet City specifications.

The City Engineer has reviewed the preliminary plat. Comments are provided in attachment 10 along with Article III of the subdivision code. All comments will be required to be addressed to the satisfaction of the engineer prior to the submittal of the final plat.

City Staff is requesting the Planning Commission recommend Preliminary Plat approval to the City Council for the commercial development known as Classic Commercial Park 2<sup>nd</sup> Addition to create two (2) commercial parcels and an outlot (to be further divided in the future) with the following staff conditions:

1. All comments/concerns of the City Engineer shall be addressed to his satisfaction prior to submittal of final plat.
2. All comments/concerns of the City Attorney shall be addressed to his satisfaction prior to submittal of final plat.
3. Development Agreement must be executed after the approval of the final plat.

The City Attorney has just finished the development agreement.

**Public hearing was opened at 7:10 p.m. Public hearing was closed at 7:11 p.m.**

Balfany stated most of this was gone over a couple of weeks ago.

**Balfany motioned to recommend preliminary plat approval to the City Council for the commercial development known as Classic Commercial Park 2<sup>nd</sup> Addition to create two (2) commercial parcels and an outlot (to be further divided in the future) with the following staff conditions:**

- 1. All comments/concerns of the City Engineer shall be addressed to his satisfaction prior to submittal of final plat.**
- 2. All comments/concerns of the City Attorney shall be addressed to his satisfaction prior to submittal of final plat.**
- 3. Development Agreement must be executed after the approval of the final plat.**

**Seconded by Cornicelli; all in favor, motion carries unanimously.**

This will be heard before the City Council on May 16, 2012.

**Site Plan Review. A request by owner, Curt Strandlund, CD Properties North, and applicant, Paul Johnson, Aggressive Hydraulics, for a site plan review for Aggressive Hydraulics. The location being 18800 Ulysses St. NE, East Bethel, MN 55011. The Zoning Classification is B-3 Highway Business.**

**Property Owner:**  
Curt Strandlund  
CD Properties  
18542 Ulysses St NE  
East Bethel, MN 55011

**Applicant:**  
Paul Johnson  
Aggressive Hydraulics  
P.O Box 490665  
Blaine, MN 55449

**Property Location:**  
Classic Commercial Park 2<sup>nd</sup> Add.  
Lot 1, Block 2  
18800 Ulysses Street NE (preliminary)  
East Bethel, MN 55011  
Zoning: B3 Highway Business

Mr. Strandlund and Mr. Johnson are requesting a site plan approval to construct a 60,000 square foot commercial building for the business known as Aggressive Hydraulics. Aggressive Hydraulics is the manufacturer of hydraulic cylinders. The business is currently located in Blaine and employs 40+ workers.

The 6.06-acre parcel is bordered by unimproved Buchanan Street and R2 Single Family Townhome Residential to the west and B3 Highway Business to the north, south, and east. The property will be accessed from Ulysses Street NE.

The proposed site plan provides 78 parking stalls; 4 accessible stalls have been provided to meet ADA requirements. Parking stalls are 9' x 20' with a proposed 24' aisle width. The parking lot will be constructed of a bituminous surface with concrete curb. All parking areas will be required to be properly striped.

The proposed lighting plan provides for seven (7) lights around the building. Lights must be downcast and shielded.

The Applicant will be planting a variety of trees and shrubs around the site which meets code requirements. Privacy fencing and approximately 62 lilacs will be planted along the western property line that abuts the residentially zoned property. The grounds will have an irrigation system installed. According to East Bethel City Code, all new plantings, including turf establishment, must be guaranteed for one full year from the time the planting has been completed. A letter of credit or a cash escrow will be required by the owner in the amount equal to at least 150 percent of the approved estimated landscaping cost. The letter of credit must be provided prior to the issuance of a building permit and must be valid for a period of time equal to one full growing season.

Many of the comments of the City Engineer have been addressed by the Applicant. The Applicant will need to continue to work with the City Engineer

until all comments have been satisfactorily addressed.

Staff requests Planning Commission recommend approval to City Council of a site plan review for the construction of a commercial building, located in Classic Commercial Park 2<sup>nd</sup> Addition, Lot 1, Block 2, with the following conditions:

1. Site plan approval is contingent upon the approval of the final plat for Classic Commercial Park 2<sup>nd</sup> Addition and the approval of drainage and utility easement vacation.
2. Applicant must continue to work with staff to satisfy all comments and concerns to staffs' satisfaction.
3. Letter of credit or a cash escrow will be required by the owner in the amount equal to at least 150 percent of the approved estimated landscaping cost. The letter of credit must be provided prior to the issuance of a building permit and must be valid for a period of time equal to one full growing season. In addition to the letter of credit or cash escrow, the owner must submit an estimated landscaping cost for plantings and turf establishment.
4. Full set of the site plan must be signed by a licensed professional engineer.
5. Signage must meet requirements according to East Bethel City Code Chapter 54. Signs. Sign permits must be approved prior to the installation of signage on site.
6. Any modifications to the approved site plan shall be submitted to and approved by City Staff.
7. All conditions must be satisfied prior to the issuance of a building permit.

Hanson showed the Commission the renditions of the building. The Commission asked which of the renditions faced what areas/directions.

Mundle asked during construction would there be any special protection for the pond. Hanson said yes there would and that would be part of the building plan. Bonin asked when the road extension would be done – now? Hanson said yes it would be. Aggressive Hydraulics would need it for access. Bonin said it is not going up further? Hanson said no. The City will have the right of way to the bordering property.

Cornicelli asked if they were expanding the business or moving. **He** stated they are expanding. **They** explained this allows them about a 50 percent increase in site. The site plan also has provisions for expansions, but they have no immediate plans for that. Bonin asked where the expansion would be. He stated it would be to the north.

Pelawa asked if there should be plans for a secondary access. Hanson said there would probably be an access off of Buchanan at some time. Hanson explained the roads are built to meet the standards. Holmes asked what the area for expansion would be -- graded or bituminous. They explained it would be graded with grass. He also asked about the lighting and if it would be shaded and cut-off type fixtures. **They** explained on the back side the lights will be shaded. He stated they are all downcast lights and the lighting levels get out to the fence to

meet lighting levels. All the lights are mounted on the building. Holmes wanted to know what the minimum foot candles are out to the fence. That is his main concern for security reasons to make it safe. He also doesn't understand how the lighting gets out that far.

Pelawa was wondering about the temporary street and drainage easement that was on the previous drawings. Hanson said no that isn't on there because it is **being vacated at the next Council meeting.**

Terry was wondering where employees would be stationed in the building for production work. He stated they would be spread out. Terry said there are generous windows on one side, but really nothing on the other sides. They explained there aren't windows on the other side to allow for future expansion. The lower windows are office and common areas. The high windows were done for lighting and security purposes. Bonin asked if Terry's question was concerned with the people inside and their working conditions. Terry said yes, he was concerned about daylight for workers. They explained this plant has more daylight than 95 percent of all production plants he has looked at. Balfany said they need the windows high for security reasons.

Pelawa asked if the building plans are reviewed by the fire department. Hanson stated yes. Terry asked if the smooth face blocks are projecting out. **He** stated yes, there is some depth. Pelawa asked if it was tip-up panel construction. **He** stated yes. Holmes wondered how many shifts they run. At this point they only run one shift at this time. Holmes stated they probably wouldn't need a second shift anytime. Pelawa wanted to know about drainage in the back. He stated it is piped out to the street.

**Holmes motioned to recommend approval to City Council of a site plan review for the construction of a commercial building, located in Classic Commercial Park 2<sup>nd</sup> Addition, Lot 1, Block 2, with the following conditions:**

- 1. Site plan approval is contingent upon the approval of the final plat for Classic Commercial Park 2<sup>nd</sup> Addition and the approval of drainage and utility easement vacation.**
- 2. Applicant must continue to work with staff to satisfy all comments and concerns to staffs' satisfaction.**
- 3. Letter of credit or a cash escrow will be required by the owner in the amount equal to at least 150 percent of the approved estimated landscaping cost. The letter of credit must be provided prior to the issuance of a building permit and must be valid for a period of time equal to one full growing season. In addition to the letter of credit or cash escrow, the owner must submit an estimated landscaping cost for plantings and turf establishment.**
- 4. Full set of the site plan must be signed by a licensed professional engineer.**
- 5. Signage must meet requirements according to East Bethel City Code Chapter 54. Signs. Sign permits must be approved prior to the installation of signage on site.**
- 6. Any modifications to the approved site plan shall be submitted to and**

**approved by City Staff.**

- 7. All conditions must be satisfied prior to the issuance of a building permit.**

**Bonin seconded; all in favor, motion carries.**

**Public Hearing/Conditional Use Permit Amendment and Site Plan Review. A request by applicant, Great River Energy, to obtain a Conditional Use Permit Amendment and Site Plan Review for Route I1 for the placement of a transmission line in portions of the City of East Bethel.**

Great River Energy  
12300 Elm Creek Blvd.  
Maple Grove, MN 55369

On June 22, 2011, City Council approved a CUP for the proposed location of a 69 kV transmission line known as Route I1 for the portion of line located within East Bethel city limits (attachment 2). The portion in East Bethel is located along Fawn Lake Drive (County Road 76) easterly to Linwood Township.

Attachment 3 depicts the amended Route I1. The route follows Fawn Lake Drive and travels southerly along Sunset Drive. The transmission line is proposed to cross into Linwood Township and back into East Bethel at various points along Sunset Drive. This is specifically for the portion that is in East Bethel, not in Linwood.

Attachments 4 and 5 show rare features and hydrology along the route.

GRE has submitted some other documents for the City. Great River has staff here that can go over the project in great detail and they also have some 'rare features' documents. The hydrology map of the project will be discussed by GRE. There are a couple items that Hanson wanted to point out such as the public waters wetland and the fresh water emergent. GRE can go into details about that if you have questions.

Staff requests Planning Commission conduct a public hearing to hear public comments. Staff also requests Planning Commission to recommend approval to City Council for a CUP amendment to Route I1 as shown on attachment 3 and recommend approval of the site plan for the location of the 69 kV transmission line with the following conditions:

1. GRE will submit a construction plan prior to commencing the construction of the 69 kV line, establishing both a construction timetable and a progression of construction that shall be reviewed and meet the approval of the City Engineer and staff.
2. GRE must submit easement descriptions and final route determination prior to the execution of the CUP Agreement.
3. A CUP Agreement must be executed no later than December 31, 2012. Failure to comply will null and void approved CUP. The agreement must be executed prior to the start of construction of the project.
4. GRE must obtain city right-of-way permits prior to the beginning of construction of the transmission line within city right-of-way along Durant Street and Sunset Drive.

Hanson advised as part of this discussion this evening the City of East Bethel notified all the property owners within Linwood Township that would fall into the area that the City normally advises so there are many individuals within the Linwood Township that may be here. There is also a letter that was submitted by a resident who couldn't attend the meeting; the Chair of the Commission will read the letter during the public hearing. GRE is here to answer questions.

**Public hearing was opened at 7:37 p.m.**

The chair advised the Commission of the rules for addressing the Commission. Please keep your comments to a minimum to allow for everyone to speak. Additionally, please make sure you state your name and address prior to speaking.

The letter the Chair read was from:  
Jared Trost, 23016 Sunset Road NE, East Bethel, MN 55005.  
The letter was dated 5/7/2012.

Dear Members of the East Bethel Planning Commission and Concerned Citizens,

I apologize for my absence, I am out of town on business this entire week and unable to attend tonight's meeting. I understand the need for this power line; it is necessary to create redundancy and increased capacity for the existing electrical infrastructure. As a citizen that demands electricity, I respect the work that is done to ensure the consistent supply of reasonably-priced energy.

That being said, I would appreciate if the board or GRE could answer the questions listed below. If these questions were addressed prior to the reading of this letter, I apologize for the repetition. The decision about the location of these lines has a very long, interesting history spanning four years. As I understand, the plan being presented tonight is a result of months of mediation between the City of East Bethel and Great River Energy.

To the best of my understanding, there have been several proposed routes for this project. The first favored route was to be run primarily through Cedar Creek Ecosystem Science Reserve, then east along County Road 26. This plan was abandoned following public resistance and political mishaps, and not on the potential for negative ecological affects from a power line. This plan may have benefitted the city residents with a bike trail in cooperation with Cedar Creek Ecosystem Science Reserve.

Another proposed route was to run east of East Bethel altogether, but was unfavorable to GRE because of the small possibility of running into archeologically sensitive areas during construction. There are probably other proposed routes as well that were not selected for a variety of reasons. With that very brief summary, I would appreciate answers to the following questions:

1. What is the cost savings to GRE of this route compared to the other proposed routes?
2. If a different route, though more expensive, were chosen, what is the

increase in cost that would be experienced by customers?

3. Was the Cedar Creek route abandoned for legitimate logistical and cost issues? Or was this plan abandoned based on loud voices and some questionable political decisions?
4. What kind of precedent does this set for future infrastructure?

Thank you for your time.

Mr. Trost.

Mundle asked GRE to approach the Commission to address the questions. Peter Schaub from GRE came up to address the Commission.

Question one: What is the cost savings to GRE of this route compared to the other proposed routes? This is one of the second least expensive routes that they looked at. This route's estimated cost is about \$3.9 million dollars. Things can change those costs, such as length of route, soil conditions. Some of the other routes were much longer. The difference in cost is about \$300,000, between this Route and Route A. The others go up markedly. Two of the other routes would have cut through Cedar Creek and they were about the same costs. Some of the routes were as expensive to \$9 million dollars.

Question two: If a different route, though more expensive, were chosen, what is the increase in cost that would be experienced by customers? They don't have a breakdown on what it will cost customers as they are a coop. They set their rates by all the projects throughout the State and the cost gets spread across to all of the coops. The costs for this project will have a minimal impact on the consumer, but if you add all projects across the State, the rates do go up.

Question three: Was the Cedar Creek route abandoned for legitimate logistical and cost issues? Or was this plan abandoned based on loud voices and some questionable political decisions? It wasn't abandoned. The City denied the Conditional Use Permit after GRE went through the process.

Question four: What kind of precedent does this set for future infrastructure? This is the precedent that we always follow. We follow the guidelines and rules and we abide by their decisions and try to move forward. We didn't get a permit for Route A, but through mediation we are trying to get approval for this route.

The public then took the opportunity to make comments and ask questions.

Paul DeVange, 23331 Sunset Road, Linwood. He asked why GRE is trying to come down a 45 mph road. If you were to use this route, you will be 30 feet from the front of my house. Why not go through the park land? This route makes no sense to him and he is sure this is how most folks feel.

Schaub said the line will be close to his house. DeVange said you will take 30 feet from the road. Schaub said the poles will be 60 feet from your house and they have given the City what they believe is the best route they can follow. The route is subject to some tweaking based on soil conditions, topography and social issues. DeVange said we don't want to work with you, it doesn't make sense and

this is a 45 mph road. It just doesn't make sense.

Janis Wassmund, 22959 Sunset Road, Linwood. After discovering about the lawsuit, why are you denying a route that is the least populated and will affect the least amount of people? She asked why send it up Sunset where you will affect the most people. She doesn't want GRE to answer this question, she wants the Commission to answer it.

Cornicelli said this has been a long process. Route A in terms specifically on homes effected in East Bethel would be 76. On Route I1 in East Bethel there would be 33 homes affected. There are 18 on Route A that would adversely be affected in East Bethel and only 8 on Route I1. Overall there are less affected in East Bethel on Route I1.

Wassmund's other concern is they already own the existing right-of-way. They are forcing this onto people. Mundle said no existing right-of-way exists. He thinks for these lines they need to acquire more right-of-way for these lines. Cornicelli said not for transmission lines. Schaub explained GRE has existing transmission line easement for one mile in the northern part of East Bethel, but they would still need to acquire it for any route. Wassmund stated she does live in Linwood and it will be in her front yard. She just watched them approve permits for another business and the City of East Bethel has more businesses and you don't want to share the benefit of these businesses. You just want to share the burden. She is a little disappointed in East Bethel.

Holmes said for the people in the audiences: Transmission lines are to move power from one area to another. Distribution lines are the ones that provide power to your houses and businesses. GRE is trying to put in a transmission line for back up to Linwood.

Schaub stated this is for everybody and it is for the entire region - Linwood, East Bethel and Athens. It will benefit all. GRE doesn't want to give the impression that it will be for only one community.

Holmes said from previous meetings that they had, they were told it was going to be a back-up route for power for the Linwood substation. He stated this hasn't been an easy decision for any of us. He was a member of the committee that worked on this issue. When other communities are talked to before East Bethel and then GRE throws us into the mix in the end, we don't like that at all. He thinks that GRE was a big problem in this project moving forward.

Randy (Diane) Rengo, 475 Cloverleaf Parkway, Blaine. He and his wife own 40 acres south of Fawn Lake Drive and directly west of Sunset. It is a lot of low land, so it wasn't subdivided. They have a lot of concern about the position of the transmission line. It would run a half mile on their property. Last October when the City Council approved the section of the route, it would go straight on and then bypass Sunset Drive. It was less impact for the City of East Bethel. Now with it being proposed to go down Sunset, it impacts a lot more area and people. Going back to Route A would make a lot of sense. They would only have to improve some of the line. To him it would be a no brainer, when you

drive this route and when you see there is no easement. There are no trees cleared along this route. As you can see from the recent letter, it has to jump back and forth for trees and houses. Route A would be much simpler for GRE. Route II is a total re-modification of everything. He would like to ask Planning Commission to take that into consideration. On his 40 acres, on the east side of his property, he has high ground and they want to build on it for retirement. They only have 160 feet there. Their plans to put in a house to overlook their wetlands and these wetlands benefit the whole area. He stated we have always imagined looking to the west and looking at that area. With this transmission line on the only high property, he wouldn't be able to build on their 40 acres ever. It would take up too much of the high ground. Route A would be the best route and it would go on their property for ½ mile. The line crosses the street and then comes back across to avoid a house. If the line was put on the other side of the street, that would help him be able to build his dream home. He really feels that being that the other route was proposed (Route A) exited on Fawn Lake Drive, and it didn't affect him or the community that bad. He said but now that you are going down Sunset, it really will affect the residents in East Bethel and Linwood. He would like the Planning Commission to reconsider the portion on Sunset because it will affect the residents.

Lucinda Johnson, 4796 Fawn Lake Drive, East Bethel. She stated she lives next door to the property that was just discussed. Just thinking about this plan makes her very sad, disappointed and upset. She doesn't know why the other Route wasn't approved. She stated Cedar Creek was okay with the original proposal. Mundle said they were not okay with the plan. She said the south side of Cedar Creek, they were more okay with. Now hearing there was another alternative route through Cedar Creek makes her more upset. We all moved out to East Bethel because we wanted nature, trees, etc. The trees will now be taken down. GRE will have another 35 feet in from the road. She thinks 2 of their 3 buildings are within the 35 feet. She works from home and will see the power lines. She will go for a walk down the street seeing the power line. She is concerned about her health, and her property value. She thinks there are better alternatives. Going through Cedar Creek is viable. At this point it seems the City Council is trying to get out from the lawsuit. She doesn't think that those decisions can be made without thinking about all of them. She asked all her neighbors to talk about it and to come to the City Council meeting.

Becky (Gary) Knisley, 23250 Sunset Road, East Bethel. She is in agreement with what Cindy said. We moved to East Bethel to be rural and she knows we need electricity. She did so much research on this, read the summons, complaint and all the legal mumbo jumbo. She thinks Route A is a viable solution and from all the information that she read it was shot down because neighbors were screaming. Why was it shot down? Then GRE ended up filing a lawsuit to make the City approve one route.

Cornicelli responded saying the original route that was considered for approval is essentially the one we are considering today, Route II. GRE wanted this route from day one. GRE went to Route A after they abandoned this route.

Knisley said the City lists Sunset Road as a Rural Residential Street. She asked

where you would expect to see infrastructure, on a county road or highway. This is a residential street and it doesn't have the easements. She said it looks like you hired an outside source, Mr. Schedin. Why aren't we doing what he recommended? At the Planning and Zoning Commission meeting in February 2011 there was an approval. A couple of months later it was a total turn around. Mundle said they were only given a small presentation and didn't get all the information. Most importantly they hadn't received the results of the work group. Becky said she just got the letter a week ago, and the letter was pathetic. How they are supposed to give their opinion, it doesn't tell you what is going on, why it is going on. If those lines go in, they will clear the few trees they have left. If they clear the trees they have left, they won't have any trees left and will look directly at power lines. In order to acquire the right-of-way, what is the process?

Schaub said once GRE gets a permit, they will go and talk to the property owners. They will work with the property owner, but they can use eminent domain if the property owners aren't agreeable, but usually they don't do that.

Knisley said it looks like from the City's perspective that the City doesn't want expansion. She is looking at the different routes and the City has just pushed it so it is not running through the City.

Bonin said this power line has nothing to do with growth within the City. It is transferring power from one point to another. Mundle said this is for power for the Linwood substation. Cornicelli asked Schaub to stay in the room.

Schaub said it is for the entire region. It doesn't only benefit one community. Knisley said if this line doesn't go in, will there be enough power for the Hwy. 65 corridor? Schaub said eventually no there wouldn't be. We have to look ahead and be prepared because we can't be in a position so there won't be reliable electricity. It is for everyone in the area.

Knisley said according to the letter, GRE didn't apply for the CUP for Route II. They didn't apply for that, but got approved for it. Tell me if I am wrong. It looks like GRE is settling for an alternate route, Route II. It doesn't make sense. If the last resort is eminent domain, she would say to you guys how you are going to win eminent domain if she refuses to give you her right-of-way. If we all band together, how will you get what you want? This is all because the City is the one who started this mess, they didn't approve the shorter route on the busier road. It is clear the City doesn't want these lines in the City of East Bethel. The City hired an attorney and a specialist and didn't do what they recommended. Mundle said the specialist recommended Route II. Balfany said if you were to go south, the preferred south route would be Route A. If they were to come from a different direction then Route II is the preferred route. This didn't come to the City of East Bethel as a group discussion - it was decided between GRE and Athens Township before it came to the City of East Bethel. The first option GRE presented to the City was Route A. The alternative route was to cut through the middle of Cedar Creek. They stated that that University of Minnesota wouldn't allow the line to go through the middle of Cedar Creek. They then gave us Route A and B. Route B was cutting through the middle of Cedar Creek. The City then

asked for more alternative routes. There were approximately 20 alternative routes discussed.

Bonin stated you cannot equate "we will cooperate with you" as "we are ok with this Route." That is not the same as saying we are okay with it. Knisley said you aren't affecting the homeowners if you go through that area. Bonin said homeowners are not the only ones that need to be considered. You are not talking like you understand that. Knisley stated nobody wants it. It seems that the City is opposing it going through the City or the City wants it on the perimeter of the City. This public hearing is only for the parts of Sunset Road that is on the East Bethel side. It affects the residents in Linwood and Athens. Knisley stated she didn't receive a notice when there was discussion on the Fawn Lake Drive. Hanson explained you didn't receive it because you were not in the affected area.

Holmes said there is power going down 35W to Linwood. The power company has back-up so if the power goes down there this line would back that up. GRE negotiated with Athens and had an agreement with them before the City of East Bethel was involved. They didn't talk to East Bethel or Linwood. We have had many meetings to discuss the routes. Holmes also explained the reason the line is going down Sunset is Linwood didn't want it in their area. That is some of the history behind this. They do have to have a back-up. He has always wondered why they didn't go along Hwy. 95 and have been bound determined to fight with three municipalities.

Troy Williams, 4423 Fawn Lake Drive. Williams asked if there is a simple answer to why it didn't go down County Road 26. Schaub said that would be Route A. Terry said he could give a couple of answers. The number of homes affected is 76 on Route A. On Route 11 there are 33 homes affected. When we considered Route A, it was a room like tonight, and people were objecting just as loud as you are. **It is not as were considering that,** but this route has less homes. Public hollered from the audience that the houses sit back farther on Route A and have more front yard. Public stated you aren't counting Linwood homes. Public said she did a count of the homes when you take into account Linwood, East Bethel and Athens. Terry said when they were looking at Typo Creek Route he thought it would be less impact. We were told absolutely not by the City of Linwood. Some of this stuff is beyond the City of East Bethel's control.

Mike Heath, 4762 - 229<sup>th</sup> Avenue NE. Heath stated he is on Route A and no one wants these power lines. He has made measurements, he has traveled the routes and it is close to double the amount of homes that would be affected if Route A had been approved. Particularly on the south side of County Road 26, the homes are older and less offset than this area. He was heavily involved in fighting four years ago and this was the original proposal. Someone asked for a simple answer and the simple answer double the amount of people affected.

Patrick Schwartzwald, 4516 Fawn Lake Drive. He has made a few of these meetings and has talked to Schaub from GRE. Originally it was approved for Route A, and Route 11 is more expensive than Route A. How do you feel knowing that other communities will be affected and GRE doesn't know what the

final costs will be? They wanted this route and only 8 houses will be adversely affected. Hanson said there are 8 directly affected houses. Terry said for those 8 homes it would directly affect their property. Schwartzwald doesn't understand how you can raise costs more than what it was originally planned for. He doesn't know how they can sleep. It is in black and white. He asked Schaub if he sleeps well at night. Mundle clarified this isn't the final cost, it is an estimate. Public stated you spent money for a consultant and hired Schedin. Schwartzwald said Route A impacted more people. Following a request from the residents and the City, they came up with Route I1 and it will cost more. He doesn't know how they can sleep at night.

Mundle asked how many customers are there with all the different power companies. Schaub said about 1.5 million customers. It was stated \$300,000 is the estimated price difference between the two projects discussed (Route A and I1).

Schwartzwald stated it is your job to decrease costs, not increase costs. Cost is the number one issue. Everyone gets sick and dies from cancer, you don't think about the cost of people to live. Terry said quality of life is important too. Route I1 will affect half the amount of people. He said the City is not the one spending the money. Resident stated you made a decision to increase costs by choosing one route over another. Terry said I abstained from the motion because I didn't have all the information.

Resident, 4482 Fawn Lake Drive. She was at a previous meeting and supports what people have said. She thinks the Linwood residents haven't heard about the fall lines. How far away and how your home is impacted if a tornado comes through.

Schaub said he will clarify two issues. The poles are designed to withstand 90 mph winds and designed for 40 mph winds with ice. There was another question that was raised regarding funding for mortgages through the VA. They have guidelines if a house is within a fall area of the electrical structure and if the pole is within the fall zone. We don't put them so they are in the area of eligibility for a VA loan. We will work with the homeowners on value.

Balfany said regarding the gentleman discussing costs. The \$300,000 project cost is spread out to all the GRE customers. It goes out to the make-up of their rates. Schaub said they are a wholesaler, whatever our costs are for the year we use it to make our rates for the next year. So it is spread over the entire base. Balfany said it is a fractional cost amongst all customers through the coop. Schaub said all costs are aggregate. Cornicelli said any cost increase could be from another area, not here, correct - and all costs are spread out throughout the cooperative. Schaub said costs are based on all the expenditures throughout the state. Balfany didn't want specific numbers, but just wanted it pointed out that the rates in this area are affected by all items. Schaub said there is about a \$40 million dollar annual budget for transmission lines.

Schaub said this area is almost all within Connexus Energy. Athens and Linwood are also within East Central. Balfany said one could make a similar

argument that this could help East Central in their upgrade costs. That could be a savings for them as well. Schaub said if we overtake a distribution line that is a savings to the local coops.

Ann Jonas, 4525 Fawn Lake Drive, East Bethel. She has lived in her home for 41 years and is 82 years old. Sooner or later she will have to sell her property. She asked if the Commission thought it would help if she loses her trees, her red pines, her spruce at the drive. She will next discuss the neighbors, all of whom she loves. All of whom are upset by this. She said picture this - do you have trees in front of your house? Balfany said no. She asked who here has 40 or 50 foot pines? Holmes said he does and he wouldn't like them cut down. She said that is the most beautiful street, referring to Sunset. It is impossible for her to think what it will look like. She was told that Sunset was too narrow for the transmission lines. So if they are going to be put there, where will the poles go, not on the street. They will be in people's yards. Maybe you think there is room for them to be put in, and that is what Schaub told her. She said Route 11 is now being considered because Linwood wouldn't go along with the deal. Mundle said what deal. Jonas stated the deal that Linwood wouldn't go along with the plan. All of the sudden there wasn't a line going across Linwood. Balfany said there has to be a line going through Linwood to get to the plant. Jonas said all of the sudden the line disappeared and it is coming down Sunset. She doesn't understand it. She simply doesn't understand what is going on. She will tell ya, she was always very proud of East Bethel and she has been here 41 years. It has always been a great place, but she just doesn't know what to think now.

Holmes said you should be proud of East Bethel. We could have rolled over and it would have gone in where they wanted it. We have fought for you. We have worked on it, the Council has and the special Commission has also worked on it. We took into consideration not just cost but the trees, wetlands, burial sites, and we are not the only ones that have done this. Athens has done the same thing and so has Linwood. All three don't want it. Holmes stated his suggestion went by the wayside. He thinks the City of East Bethel has fought for the best of the community and no one is going to be happy. He is not saying he would be happy if it was in his yard. He said to cut down the Council, Commission and Special Commission is pretty bad. It has been four years the City has fought and fought and fought, until GRE took us to court. The public asked what his suggestion was. He said have the lines run on Hwy. 95.

Resident at 4710 Fawn Lake Drive. He asked why GRE doesn't come down Hupp Street. There are really no houses and then you could go down 229<sup>th</sup>. Sunset is a forested area. We have had oak wilt and the beetles. Now we can see cars go by, due to the loss of trees and now we are going to lose more. Everyone down Sunset has forested lots. That is just his point, go straight down Hupp Street and there are no homes. If you look at the map, there is only one house that will be affected until you get to Jewel Drive or so. You will affect about 4 homes.

Public asked when you were in mediation was this what the City was willing to accept. Schaub said we do want a permit and we have been working on this for three or four years. If this is the permit we can get, we will make it work. Public

asked will you drop the lawsuit. Schaub said yes, if we can get the permits. That was the point of the mediation. So we could find something that everyone would agree on – Athens, Linwood and East Bethel. Public stated if the City of East Bethel would have approved Route A we wouldn't be here today. Mundle said no decisions were made because of a decision. Public said it has to go somewhere, and everyone is upset and mad.

Karen Baldwin, 4611 Fawn Lake Drive. She listened that you did approve Route A, but you changed your mind because you didn't have all the information. Route A (229<sup>th</sup>) you were in favor of that until you got the results from the work group. Mundle said yes, until we got the information from the work group. Hanson said it was brought to City Council and it didn't come through Planning Commission. Public stated they didn't have all the information. Balfany said the same thing could be said about Athens, because they approved their route thinking their route would be planned in East Bethel and Linwood. She asked what the route of impact is. When she drives Sunset, their houses are right on the road. She said on Route A, their houses are set back and there may be more houses, but not as many as adversely impacted. She doesn't want to see how many were affected but how much they are affected. Our neighbors on Sunset don't have the room for easements.

Mike Falany, lives on Typo Creek Drive, Linwood. He lives ¼ of a mile from the substation and he believes the people that live on Sunset made a fantastic case. One of your criteria was to affect the least amount of people. He has driven down Sunset, it is a beautiful little street and it will be decimated. He can't see how it would make one ounce of difference to GRE and going down Hupp Street would be a beautiful way to go.

Public stated this is going to cost GRE a couple more dollars to go through a swamp. A million more dollars is nothing to them, a million here or a million there, it just isn't logical. There is a straight line that will cost less. You will be taking away all of these residents' front yards.

Marcia Fabrieses, 23017 Sunset Road, Linwood. She asked if a public hearing was held in Linwood about this. It sounds like if you approve this, it will happen.

Schaub said we had been to Linwood about three weeks ago and explained Route II. The Linwood town board members said they had worked with East Bethel, other routes were deemed more objectionable, and this is a route they could live with. He explained Linwood doesn't have the same sort of process that East Bethel does. Fabrieses asked if Linwood requires a conditional use permit. Schaub said no they don't.

Schaub said we looked at Hupp before and he believes the reasons they stayed away from that location had to do with environmental issues. It has been three or four years since we were down that route, so he isn't positive on that. This route, Route II, came about because of conversations with East Bethel, Athens and Linwood after we were in arbitration.

Terry said if a road is smaller than Sunset and has some wetlands and forest how

much different would that be. Schaub said it is always an issue when we have to go through wetlands, It does cost money. When you go through forested wetlands we have to replace them and all of that gets expensive. It is more difficult, there are more issues, and it might even involve protected species.

Bonin said she understands how people along the route feel. She thinks she would feel better about the decision knowing that the Commission looked at all the different ideas. She asked Schaub to look at the Hupp idea prior to meeting with the City Council.

Public asked if Hupp was looked at. Schaub said it was looked at. Balfany said it wasn't brought to the work group. Schaub said he doesn't remember why it wasn't presented.

Public asked when you approached Athens four years ago, did Athens have an ordinance. Schaub said yes. Public asked if East Bethel had one. Schaub said at the time East Bethel had a moratorium.

Public asked who is PEMF. Pelawa explained it is a wetland classification. Public asked about the blanding turtles and does that factor in to going on the north side or not, does Schaub know or does the City. Is it a concern or an issue. Schaub had Marsha Parlo can answer that question, she is with the Environmental Department of GRE. She explained this whole area has blanding turtles. The DNR will require GRE to protect the blanding turtles. They may have us do work in the winters, but we will do what the DNR wants us to do.

Terry said he was wondering if it could go on the other side of the road versus the property. She said we will work with the Army Corp to figure things out. She can't remember the specifics on the alignment of the road. She thinks there would have to be some structures in the wetland. Pelawa said any impacts that you have will have to go through the Army Corp and the DNR to get permits. Parlo stated yes; she will have to work with the cultural resources with the DNR. Right now they are ordering a survey of plant communities.

Darrel Page, 4546 Fawn Lake Drive. He wants GRE to look at the Hupp route. He also wants them to rethink Route A, and the impact of those on Sunset. Where it comes down Durant, would it be just one pole on the corner or three poles, or is there another factor. Schaub said just one structure. Sometimes there will be guide wires. It all depends on the area of availability. Sometimes it can be a metal pole with a concrete pier. Sometimes the metals poles are rust colors.

Public said you are reacting to our emotion. The Linwood people and those of us on Fawn Lake Road heard that the other route was approved, Route A. We had heard from Schaub that Route II is being considered. There are eagles, there are cranes, there are geese, swans, and she can't remember all the different kinds of ducks, loons, etc. We are at an age where we aren't going to be living out here forever. She doesn't know how this will affect her property value. She feels like they are getting the short end of the stick.

Joel (Carole) Awrel, 23515 Sunset Road, Linwood. This is a bad deal for my

wife and me. We have lived here for 21 years and GRE will clear cut about 300 feet of trees for this route. The last power pole will be closer to the length of this room to our house. We don't plan on moving. How will this affect our property value.

Public asked about the no-build option that was discussed and asked the Commission to explain it.

Cornicelli said the ordinance says they have to give an alternative of a no-build. The City wanted to know if no-build was an option. The expert that was hired also said it did need to be built. Public said doing nothing versus not letting go through the City. Cornicelli said no, looking at it if it did need to be built. And it does need to be built.

Holmes said we did look at Viking Road as an option, but they told us that it would cost two times more. Viking will be expanded someday, so they don't want to go through that. The City of East Bethel has so much going for it. It has many wetlands, archaeological sites, etc. Public said would you explore that option of County Road 22 again, and go the route that the City would like to see. What is the overall cost, regardless of what GRE wants. If it goes down Sunset, it is going to diminish our property values. If you are looking at a \$200,000 value house, it will make them valued at \$100,000. We will lose the values of our homes. She is looking for an alternative.

Holmes said we have had to deal with GRE going to Athens prior to going to Linwood and East Bethel. We looked at Sunset in one of our first meetings. We have been to court, spent a lot of money, and now we are in mediation. We will have to go back to court if we don't work something out, and we are trying to work it out. No matter where it goes through, someone is going to be upset. Public asked if the mediator is dictating this route or any route. Holmes said the route that he thinks might be proposed was probably Typo, and Linwood rejected that. We want to be good neighbors. Public asked that the Commission doesn't approve this route.

Mike Fallony, Linwood. He stated he lives about a quarter of a mile from the Linwood substation. He said the big line comes down County Road 22 and goes through the swamps. He thinks the only work done so far is paperwork. It is easy to change it. You just say to GRE we have a new plan, it impacts much fewer people.

Moegerle said she would like the GRE Commission and Planning Commission to address the last mile of 229<sup>th</sup> and the impact on those houses. Cornicelli said the principal issue is the houses are close to the road. They would have to condemn a couple of houses along that route; there were a couple that were within a hundred feet.

Cornicelli said there are a few people in this crowd that have been here for four years. Someone made the point of pitting neighbor against neighbor. It has also been community against community. It has been very hard, and he has had a lot of sleepless nights. We (the Commission) hadn't seen this map until Friday. He

said he looked at the map and it looked familiar and it was right back where we started. The onus isn't on the community. The utility company came up with a negotiated solution. We asked the question four years ago why they didn't get the communities together and got no answer. They did work with Athens Township and got an agreement and East Bethel and Linwood still don't know what is going on. GRE had a public meeting in East Bethel in 2009 unbeknownst to the City. Who knows if that was by plan or just by accident, Cornicelli will let you make your own determination. It has been very, very difficult. When it comes down to East Bethel, Linwood and Athens, we don't want to pit people against each other and this is the negotiated solution. People get where everyone is coming from. Public said there are less homes going down 85<sup>th</sup> than Sunset. Moegerle said it is due to an archaeological site. Cornicelli said that GRE was concerned about the archaeological site. He said the work group's concern was that GRE didn't show any data on archaeological significance, so that is why they recommended that route. Cornicelli said GRE never demonstrated the archaeological significance. If we had all three communities working together for a common solution, we would have been better off.

Public said why don't you ask Schaub if the other route would be viable. Hupp was the street they were interested in correct? Cornicelli said Typo Creek. Schaub said he thinks Hupp might have been a route that they wouldn't have contemplated cutting across country and a wetland. Public said we are only at a half mile into the City. If you come straight down there, it is a man-made wetland. He would recommend that this route is possible on Hupp Street. Mundle said it would affect people. Pelawa said it doesn't connect to 229<sup>th</sup>. You would be cutting across people's property and the wetland which is near Cedar Creek and that won't be approved. Once you get down to 229<sup>th</sup> is where they would have to purchase the homes. There isn't a connection route in there. Public said he doesn't understand what he meant. Cornicelli said Cedar Creek would probably say no to that. Pelawa said there were lots of issues when this plat came in. They had to work with the DNR. Hanson said the City of East Bethel adopted an ordinance that deals with transmission lines that they can't go cross country and they have to be run down the street.

Public said you are telling us that it won't change. Terry said his opinion is it should go down Typo. The best answer is there are archeological mysteries. But that is the least impactful route. A public person at the meeting agreed with Terry. A Linwood resident asked if it would be helpful to have residents go to Linwood Town Hall. The Commission said yes. Linwood resident asked why no one in Linwood knows about this. Cornicelli said that is a question you should ask the Linwood Town Board. Linwood resident said are you blowing off that question. Cornicelli said you need to talk to Linwood. Bonin said you people that live in Linwood are trying to make East Bethel be the bad guy. If you people don't like the plan as it is, talk to your town board. We have figured out where in East Bethel it is going to go. Don't expect us to make the decision for your City. Linwood resident stated people in East Bethel don't want it.

Balfany asked if Moegerle knows who was involved from Linwood. Moegerle stated she went to a meeting over there and then Bob DeRoche went to the Linwood Town Hall Meeting. Linwood was positive it would not go down Typo.

That has been the problem with Linwood. She has seen the archaeological report and they want to keep it private because people will be there digging up the area.

Balfany said the City has made Linwood aware, and they have been involved in the process. The feelings you are having are very similar to what our feelings were when we were on the work group. We needed to look at routes for our community. We were trying to act as a good neighbor. We looked at all the factors, and came up with Route 11. This is the result of the lawsuit and mediation.

Public asked about the route on County Road 26 (Route A). Terry said there were a lot of people here in the Council Chambers and they spilled out into the hallway. Public stated that was really padded with people who didn't live on the route. He knows everyone here is affected. Balfany said he has been listening. There has been many hours of work on this and many sleepless nights. This is not an easy decision. Cornicelli said if it was easy we would have made the decision four years ago.

Public asked what the next step is. Balfany said we will continue our discussion, possibly with GRE. We may have a motion, if it is approved, then it would go to Council either way. It will be discussed at their meeting on 5/16/2012. The City Council will have to make the final decision.

Public asked if there are health benefits with a transmission line. Schaub said there aren't any health benefits. Resident asked about kids. Schaub said electro-magnetic fields, GRE and the World Health Organization state there is no evidence that indicates that they are detrimental to your health. The State of Wisconsin did a white paper on it in 2008/2009. Schaub said you can either to talk to him after the meeting or you can go on the GRE website.

Public asked if the questions were answered for the resident who had written the letter. Mundle said the questions were answered and there wasn't a question about the walking path. He is a neighbor of the resident who was asking the questions. Pelawa said the questions were addressed at the beginning of the meeting. Mundle said Route A has been addressed three or four times.

Terry said Typo seems like the best route. But it comes down to a nebulous thing about an archeological site. You could build around them, because you know where they are. He is wondering why it is such a pressing issue. Resident of Linwood said they have never stated they were opposed to Typo. Moegerle said Linwood was emphatically opposed to Typo. Resident of Linwood asked if Linwood was involved in mediation. Moegerle said no. Resident of Linwood asked if their meeting was secret. Terry said unless the issue of Typo Creek is opposed to his satisfaction, then he will not vote for this.

Resident of East Bethel asked about the petition process. She wants to know if it is public information. Hanson said she could provide a copy of it since it is public information. Resident of East Bethel wanted to know how to start a petition since the website said to talk to the City. Hanson said she would get it to her. Resident of East Bethel said you should look at the property impact, not the

number of properties affected.

Margaret Gile, 24317 Durant Street. She stated she was never provided notice of the meeting. She wanted to know if Ann Jonas was invited and Hanson said yes she was. There are three other properties down there for sale that would be directly affected by this. Schaub said wherever the road easement ends, we go 35 feet from there. Gile said they have to give up how much from the center line. There will be a lot of people who will lose their homes.

Holmes said we can either approve what we have been dealt with here, what we have control of here. Or we can approve a route that would bring it to Typo. Or we can turn it down completely. The Council also can turn it down. We can be sued again. Or they can say this is where we are going. Public asked if you have been sued. Everyone said yes. She then asked how come we didn't know that. Public asked if you want to sell out the East Bethel residents, spend some more money on fighting this. Holmes said we don't want to spend more money. We can't speak for the Linwood people on Sunset, and Linwood can't speak for the East Bethel people on Sunset. Resident from Linwood said residents from Linwood will go and talk to the Linwood Town Hall Board.

Public asked if GRE has changed any of the setbacks or if they can change Sunset to a 30 mph road. Schaub said we have to follow a setback of 35 feet since these lines can start fires. If a branch touches a transmission line it will start a fire and also shut down power. It is a safety issue. Public said your main concern is safety and clear zone. Schaub said that is a City issue, and we have to comply. Linwood resident asked what do you do when you have a city and town, for example we don't know who will plow our road.

Public asked about the clearing on the site where the transmission line is. Schaub said there would be clearing done where the transmission line is. We are not going to clear cut the road on both sides. Public said the substation on Viking Boulevard, is there a reason that substation couldn't supply the lines to Martin Lake. Cornicelli said it already does.

Public asked about the substation at Coopers Corners. Schaub said we need to keep Athens and Martin Lake Substation and all he can do is tell you what GRE's position is. Pelawa said it provides an alternative route. Schaub said it will improve reliability of power in the area. Schaub said Martin Lake serves East Bethel. This does benefit Linwood since that is the major area it serves. This project benefits from Elk River to Linwood to Cambridge and Isanti. None of you are self-contained and closed. When electricity is beefed up, it is good for everyone.

**Public hearing was closed at 10:19 p.m.**

Mundle stated there are archaeological sites on Typo and Linwood doesn't want the route on Typo Creek. It would be assumed if it wasn't on Sunset, then it would be on Typo. Schaub said he would say no. The archaeological sites are not the only issues. We submitted all the issues with the different routes. It is archaeological and historical. There are some wetland issues from Fawn Lake to

Typo. He believes there is one of the tightest pinch points too (a home close to the road right across from another home). There is also a cemetery there. Actually there are pinch points along that whole route. Then you also get down on Typo, there are homes right across from the park with a communication tower. The other issues probably go into Linwood Town Board's reason for not wanting there. Especially with East Bethel knowing Linwood doesn't want Typo. They were adamant that we weren't going down there, unless we get a court order saying to go down there.

Holmes said if their City Council says no, then why do we have to say yes. GRE said you don't. As you recall we are in litigation. It seems like maybe we can resolve this. We see this as our duty to finish this project. We need to fulfill our duty to our members. It is the Planning Commission decision. Terry said the Board is speaking on their behalf, and they haven't talked about it with their residents. Schaub said you are only authorized to talk to work on the East Bethel side, not on the Linwood area. Linwood has weighed in on this route. It doesn't put you in a position of dealing with Typo. Terry said it looks like the preferable route. Schaub said it is a preferable route.

Balfany asked how far apart for power poles and poles won't go in everyone's yards. Schaub said distribution lines have to go 200 to 250 lines apart. If it is just transmission lines, they can go 400 to 450 feet. Typical underbuild are 200 – 280. Transmission lines go 350-400. Cornicelli said all of Sunset has distribution lines all the way down. What would the feasibility be to bury the distribution lines on Sunset and have the transmission line at 400 feet and can the poles not have guide wires. Schaub said there are only a couple of guide wires. He said it could be a brown pole, concrete pier, etc., a lot of that will be up to the engineer. We can work with property owners to a certain extent. Sometimes the engineer will say they actually have to have something specific.

Hanson said he wanted to remind the Chair that the meeting needs to be adjourned by 11 p.m.

Schaub said there should only be three lines on the poles and a shield wire. He said the line that runs to Coopers Corner is similar to the line. He said traditionally they are trying to take 70 feet, but in this area, they will be taking the minimal amount. It all goes to the safety.

Bonin asked if separating the two lines is an actual possibility. Schaub said that is a decision Connexus will have to make and your rates are based on their costs. They might have some savings; they will have greater costs if they have to bury everything. It is a little tougher to figure out problems with a line underground.

Pelawa asked what the construction time line is. GRE stated it is a year and a half. Engineering would start now. Construction would occur over the winter of 2013/2014. They would start working with the residents also.

Hanson said one of the conditions states that the date for the CUP being completed had to be done by December 31, 2012. Would you need more time for that then? Schaub stated yes. Hanson said we would change the date to

December 31, 2013.

Holmes asked why is staff recommending approving this. Hanson said this has been worked on by Athens, Linwood, Cedar Creek and East Bethel. All the entities agreed on it. Resident asked if what would happen if the residents on Sunset didn't work with GRE and didn't allow it to happen. Schaub said they would work through condemnation. The company as a whole is tightening up their requirements. This project is an exception. In this instance we would make sure things are cleared the way it is supposed to.

Holmes commented that it is tough for both sides. As a Planning Commission we have to do due justice to the City of East Bethel, not to Athens, not to Linwood. If we make the decision to go down Sunset, we will have 33 people mad at us. If we don't pass it, litigation will keep going. And it will cost all 12,000 residents money. Cornicelli said only East Bethel will assume the court costs. We are the only ones in the court. Terry wants to know more about the Typo route. Pelawa said that isn't for us to determine. Cornicelli told Schaub if you would have gotten all the entities together to begin with, we wouldn't be where we are today. One entity no longer has a choice. The rest of it gets rammed through and it has been handled very poorly. It could have been avoided. Balfany agreed with Cornicelli's comments.

Terry asked why Linwood isn't facing litigation. Cornicelli said they don't have an ordinance. They can put it wherever they want because they don't have a choice in the matter. Terry asked if he was satisfied that the Typo route doesn't have merit. Cornicelli said he doesn't see a better alternative. Given everything that has gone on and based on what he has heard. He doesn't think it is our place to tell Linwood where it would go. Pelawa asked what are the negative aspects of running the line across county. Schaub said it has to do with maintenance, access and cost. Pelawa said he didn't know if it was an engineering issue. Schaub said you also have to deal with budgets. If you take it completely out of East Bethel, there would be issues with maintenance and length.

**Balfany motioned to recommended approval to City Council for a CUP amendment to Route I1 as shown on attachment 3 and recommend approval of the site plan for the location of the 69 kV transmission line with the following conditions as stated:**

- 1. GRE will submit a construction plan prior to commencing the construction of the 69 kV line, establishing both a construction timetable and a progression of construction that shall be reviewed and meet the approval of the City Engineer and staff.**
- 2. GRE must submit easement descriptions and final route determination prior to the execution of the CUP Agreement.**
- 3. A CUP Agreement must be executed no later than December 31, 2012. Failure to comply will null and void approved CUP. The agreement must be executed prior to the start of construction of the project.**
- 4. GRE must obtain city right-of-way permits prior to the beginning of construction of the transmission line within city right-of-way along**

**Durant Street and Sunset Drive.**

**With the correction of changing the CUP agreement date to December 31, 2013. Pelawa also corrected that number four should also say Durant Street, Sunset Road and Fawn Lake Drive. Mundle seconded.**

**Roll Call Vote:**

**Holmes – In sympathy with anyone on Sunset, but our Commission has to look at the full City of East Bethel. Vote Yes.**

**Balfany – During the public forum he made his experience very clear. Very difficult and long awaited to get to this. He wishes no one would have it. Vote Yes.**

**Terry – Based on not being satisfied that the best option hasn't been considered and yet understanding the bind the City is in. Vote Abstain.**

**Mundle – He doesn't like it. It is a tough decision. Vote Yes.**

**Bonin – She agrees with everyone. Vote Yes.**

**Cornicelli – This one is tough. Given my closeness to the issue and how my relationship has been with all of this for the past four years. Vote Abstain.**

**Pelawa – After hearing everything he still feels there is still another alternative. Vote No.**

**Vote Totals:**

**Yes – 4**

**No – 1**

**Abstain – 2**

**Motion carries.**

This will be heard at the 5/16/2012 City Council meeting.

**Approve April 24,  
2012 Planning  
Commission Meeting  
Minutes**

**Holmes made a motion to approve the April 24, 2012 minutes as submitted. Mundle seconded; all in favor, motion carries.**

**City Council Report**

Big meeting over at Cedar Creek as to what their economic development is.

Hanson said on Friday you will get a packet for Lowell. It will be heard in front of a hearing officer.

**Adjourn**

**Mundle made a motion to adjourn the meeting at 10:55 PM. Balfany seconded; all in favor, motion carries.**

Submitted by:

Jill Teetzel  
Recording Secretary

DRAFT



# City of East Bethel Agenda Information

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**Date:**

June 20, 2012

\*\*\*\*\*

**Agenda Item Number:**

Item 8.0 B.2

\*\*\*\*\*

**Agenda Item:**

Interim Use Permit (IUP) Request by Mr. Lowell Friday for the Keeping of Twenty-Seven (27) Horses at 18215 Greenbrook Drive, East Bethel, MN, and PIN 34-33-23-33-0027

\*\*\*\*\*

**Requested Action:**

Consider approving the Interim Use Permit Request by Mr. Friday for the Keeping of Twenty-seven (27) horses at 18215 Greenbrook Drive, East Bethel, MN, and PIN 34-33-23-33-0027

\*\*\*\*\*

**Background Information:**

**Property Owner:**

Lowell Friday  
18215 Greenbrook Drive  
East Bethel, MN 55092  
PIN 33-33-23-44-0003 (20.5 acres)  
PIN 34-33-23-33-0027 (4.6 acres)

**Applicant:**

Mary Haivala  
18215 Greenbrook Drive  
East Bethel, MN 55092

Lowell Friday as the property owner and Mary Haivala as the applicant are requesting an IUP for a Class III horse operation for the keeping of up to 27 horses on two parcels Mr. Friday owns in the City of East Bethel with parcel 33-33-23-44-0003 being 20.5 acres and parcel 34-33-23-33-0027 being 4.6 acres in size. Attachment 1 depicts the location of each of the parcels.

East Bethel City Code Section 10, Article V, Farm Animals regulates the keeping of domestic farm animals. Section 10, Article V is included for your review as attachment 4. City Code requires one (1) grazable acre per horse, thus Mr. Friday would be required to have 27 grazable acres for the keeping of 27 horses. The existing acreage of the properties are 25.1 acres, of which the homes, pens, exercise areas and numerous barns and out buildings utilize approximately 7 acres, leaving only 18 acres that can be considered grazable. Therefore, from the acreage standards as set forth in the Code, Mr. Friday does not have the required amount of land at this location to meet the Code requirements for the keeping of 27 horses.

In addition to acreage requirements, East Bethel City Code Section 10, Article V. Farm Animals, also regulates a number of other requirements related to animal health, safety and treatment. These regulations include but may not be limited to the following:

**Section 10-153. Manure, Rodent, and Insect Management** states that *manure must be handled or treated in such a manner as to not create a public and/or private nuisance, paddocks or*

*similar enclosures must be maintained in a manner that minimizes concentrations of breeding insects and rodents, and stockpiling of manure requires a manure management plan that meets requirements set by the MN Pollution Control Agency.*

**Section 10-154. Care and Maintenance of Animals** states that *no animal regulated under this article shall be treated cruelly or inhumanly by any person or in violation of any provision of MN Stats. Ch 343, as amended and/or renumbered from time to time.*

**Section 10-154.5. Animal Health and Animal Shelter Regulations** states *all animals must be maintained to standards of health specific to the breed, must have access to potable water, shelters must be kept in a sanitary manner, consistent and adequate food and water supply must be available to all animals and fencing must be kept in a manner consistent with MN Stat 344.01-344.20, as amended and renumbered from time to time.*

In October 2007, Mr. Friday was charged with animal cruelty which resulted in Mr. Friday pleading guilty to a misdemeanor charge of mistreating animals in August 2009. Despite the courts action, the Minnesota Animal Humane Society (MAHS) continued to receive calls and complaints alleging the pattern and neglect of horses after this date.

On August 29, 2011, MAHS, upon complaints and requests from various individuals and organizations, took action on Mr. Friday by conducting a search of his property and included a veterinarian inspection of his horses. The MAHS submitted a report summarizing the inspections of the property completed on August 29<sup>th</sup> and the inspection resulted in the seizure of ten (10) horses. Observations included but were not limited to the following:

- Many of the outdoor pens and paddocks had excessive accumulation of feces and/or manure;
- the farm and paddock areas continue to be in a state of dilapidation and including pens with antiquated fencing, sharp objects, and other potential health hazards to horses;
- many penned horses did not have access to hay at the time of inspection;
- water supply in many pens was algae ridden and/or contaminated;
- numerous horses showed evidence of evidence of external parasite loads including lice; and
- found horses needing farrier work and horses with distended stomachs from internal parasites.

On January 6, 2012, a Findings of Fact Conclusions of Law and Order (Court File No. 02-CV-11-7750, Anoka County District Court, Tenth Judicial District) was executed by Judge Jenny Walker Jasper. The findings of fact concluded the following:

- On November 16, 2011, the Animal Humane Society executed a search warrant at 18215 Greenbrook Drive NE, East Bethel, owned by Mr. Lowell Friday;
- a veterinarian was present during the execution of the search warrant and examined 28 horses owned by Mr. Friday;
- of the 28 horses examined, 7 were seized because of malnutrition and dehydration;
- a veterinarian observed the feed located on the property and testified that the available hay was of poor quality and garbage was visible in the bales; and
- the only available water source found was dark in color and full of debris.

As a result of the investigations of the Anoka Sheriff's Department and the Minnesota Animal Humane Society, the East Bethel City Attorney issued a criminal complaint on Mr. Friday on January 6, 2012 alleging that on or about November 16, 2011, Lowell Friday committed 35 counts of gross misdemeanor mistreatment of animals on his property in East Bethel. Those charges

were later reduced to misdemeanor charges and are still pending in the Anoka County District Court.

Staff recommends the denial of the IUP request by Mr. Lowell Friday for the keeping of twenty-seven (27) horses at 18215 Greenbrook Drive, East Bethel, MN for the following reasons:

1. Applicant has demonstrated an inability to properly and consistently care for horses and does not meet the grazable acres requirement of the Code:

2. Applicant's proposal to use another person to provide that service is inadequate and incomplete, lacks details, continuity, and assurances of long term performance, fails to demonstrate a professional long term service being secured for necessary provision of quality and consistent care needed to comply with ordinance requirements; and

3. The Public Hearing conducted on May 14, 2012 regarding this matter failed to provide the Hearing Officer with evidence that the herd is being properly managed, and that the unsafe, dangerous and unhealthy conditions, which have resulted in the long standing abuse of the horses, have not been alleviated.

Attachments:

1. Site Location
2. Application
3. Aerial Photo
4. Article V. Farm Animals
5. Judge Cass, Findings of Fact (May 14, 2012)
6. Resolution 2012-32

\*\*\*\*\*

**Fiscal Impact:**

Undetermined at this time

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**Recommendation:**

Staff recommends that City Council deny the application for the IUP in question and adopt Resolution -2012-32, A RESOLUTION DETERMINING FINDINGS OF FACT AND DENYING THE APPLICATION FOR INTERIM USE PERMIT AS APPLIED FOR BY LOWELL FRIDAY AND MARY HAIVALA, FOR THE KEEPING OF 27 HORSES AT 18215 GREENBROOK DRIVE, EAST BETHEL, MINNESOTA, PROPERTY IDENTIFICATION NUMBER: 34-33-23-33-0027 AND 33-33-23-44-0003.

\*\*\*\*\*

**City Council Action**

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Vote Yes: \_\_\_\_\_

Vote No: \_\_\_\_\_

No Action Required: \_\_\_\_\_

**In the Matter of the Application of Lowell Friday for an Interim Use Permit in the City of  
East Bethel, Anoka County, Minnesota**

The above-entitled matter came on for Hearing on May 14, 2012 at the City Council Chambers of the City of East Bethel in Anoka County, Minnesota. Judge J.E. Cass (Retired.) served as Independent Hearing Officer for the City of East Bethel.

Appearances at the Hearing:

Lowell Friday, represented by his attorneys, Allison F. Eklund and Robert Richmann; Owner/Applicant

Mary E. Haivala, Applicant

Stephanie Hanson, City Planner for the City of East Bethel

Mark J. Vierling, East Bethel City Attorney

Several interested persons

The Hearing Officer also received various statements, petitions and other information submitted by the parties, and interested persons.

The Hearing was audio and visually recorded.

**STATEMENT OF THE ISSUES**

1. Should the Hearing Officer have continued and rescheduled the Hearing as requested by the Friday?
2. Is the request for a new Interim Use Permit or renewal of the existing Interim Use Permit?
3. Should the City issue either a renewal of the Interim Use Permit, or a new Interim Use Permit?

Based on the Application of Lowell Friday and Mary Haivala, the documents submitted by the City of East Bethel and interested parties, and the comments of persons who appeared at the Hearing, and the arguments of Friday's attorneys, the Hearing Officer makes the following:

### FINDINGS OF FACT AND CONCLUSIONS

1. The City of East Bethel, (hereinafter referred to as "City") is a municipal corporation located in Anoka County, Minnesota, with comprehensive municipal zoning.
2. Lowell Friday (hereinafter referred to as "Friday") is the owner of two (2) parcels of property located in the City consisting of Parcel 33-33-23-44-0003, which is 20.45 acres, and Parcel 34-33-23-33-0027 consisting of 4.55 acres, for a total acreage of 25 acres. Friday is also the owner of a 20.85 acre parcel of property located in the City of Ham Lake, adjacent to his East Bethel property (Parcel 03-32-23-22-0003).
3. Since approximately 1984, Friday has operated a Class III Horse Operation on his property known as NV Painted Sports and Performance specializing in the breeding, sale and boarding of horses. The City has previously issued an Interim Use Permit to allow Friday to operate this business pursuant to Ch. 5 of the East Bethel City Code.
4. Friday's property in Ham Lake is not subject to zoning and/or municipal regulation which would restrict or control his use of the property for his current operations.
5. Friday's property in the City is zoned R-1/Single-Family Residential District requiring an Interim Use Permit for the operation of his horse farm.
6. Friday lives on his property located at 18215 Greenbrook Drive, Wyoming, Minnesota 55092.
7. Mary E. Haivala lives at 18165 Greenbrook Drive NE, Wyoming, Minnesota, which is a residence located on Friday's farm.

8. On January 15, 2012, Haivala and Friday entered into a Management, Care, Custody Control Contract authorizing Haivala to manage Friday's horse farm.

On February 15, 2012, Haivala and Friday signed an 8-year Lease for the premises currently being inhabited by Haivala, a copy of which was received by the City on May 8, 2012. This Lease contains a written notation as follows:

"Original Agreement. Application 8-9-11".

9. Ms. Haivala is 47 years of age and lives on Friday's property with her two (2) children, ages 13 and 14.

She signed Friday's Land Use Application as the "Applicant", and Friday signed it as "Property Owner".

In support of the Application, Haivala provided a letter dated March 26, 2012 describing her background in the care and management of horses. While she has no formal education in equine management, she has many years of "hands on experience" in caring for and managing horses.

10. In his sworn Affidavit, dated November 16, 2011, in support of the issuance of a search warrant, Michael Wahl, Investigator at the Anoka County Sheriff's office, stated as follows:

"Since 2002 the Anoka County Sheriff's office has received no less than ten complaints of animal mistreatment related to the welfare of horses and the facilities they are subject to on the farm of the identified owner, Lowell George Friday, D.O.B. 8/23/1939. The property that has been identified in the complaints to the Anoka County Sheriff's Office has been described as 18215 Greenbrook Dr. NE in the city of East Bethel, County of Anoka, State of Minnesota, and also on a leased property in the city of Ham Lake in the County of Anoka, State of Minnesota. The property in the city of Ham Lake has been described as a leased pasture South of Constance Blvd. NE and East of Xylite St. NE. The Animal Humane Society based in Golden Valley Minnesota

has also received dozens of complaints about the maltreatment of the horses at the locations identified during the same time period.”

In October, 2007, after receiving numerous complaints concerning the conditions of horses on his property, Friday was investigated by the Anoka County Sheriff and Minnesota Humane Society Agents Keith Streff and John Seward.

The Hearing Officer has reviewed the documentation related to this investigation consisting of:

Reports of Andy Knotz, Investigator in the Office of the Anoka County Sheriff

Supplementary Investigative Report of Sgt. M. Longbehn

Anoka County Sheriff – CID Case Cover Sheet

Witness List

The complete contents of a Table of Contents described as Inventory of Disclosure, including a Case Cover Sheet, Table of Contents, Offense Report, Animal Humane Society Supplemental Investigation Report, Anoka County Sheriff's Office Aid to Agency Supplemental Report, Blue Sky Animal Hospital Examination Findings, U of M Veterinary Diagnostic Laboratory Necropsy Report, Follow up Inspection Reports from Dr. Jeff Johnson, DVM, Copies of complaints received by the Animal Humane Society, Copies of complaints received by the Anoka County Sheriff's Office.

As a result of this investigation, Friday was charged with various counts of mistreatment of animals at the Anoka County District Court.

11. On August 6, 2009, Friday pleaded guilty at the Anoka County District Court to one (1) misdemeanor count of a violation of Minn. Stat. §343.21, subd. 2, overworking or mistreating animals – nourishment; shelter, for actions occurring on October 11, 2007, and involving horses owned by Friday at his properties in the cities of East Bethel and Ham Lake. As a result of the conviction, Friday was ordered to have no same or similar violations for 1 year

and to continue to comply with all requirements of a veterinarian and the Animal Humane Society in regard to the maintenance of the animals.

12. On March 18, 2009, the East Bethel City Council approved the reissuance of an Interim Use Permit to Lowell Friday with the following conditions:

1. The Friday must meet the requirements of all applicable ordinances, including requirements for Class III Horse Operations as regulated in City Code, Chapter 5, Farm Animals.
2. Per City Code, Chapter 5, Farm Animals, Mr. Friday shall be limited to one horse per grazable acres on his site and other sites where he has permission to graze animals.
3. Foals over the age of 6 months that remain on the parcel will be counted towards the number of horses allowed in the IUP.
4. Boarded horses on the parcel will be counted towards the number of horses allowed in the IUP.
5. Fencing must be repaired and maintained according to City Code.
6. A licensed veterinarian of the choice of Mr. Friday shall inspect the horses and property on a semi-annual basis, in the spring and the fall. Reports must be submitted based on the findings of the semi-annual veterinarian reports.
7. Mr. Friday must submit follow-up inspection reports from Dr. Johnson to ensure Mr Friday has taken the appropriate steps to increase the body fat of 16 horses identified in Dr. Johnson's report dated February 19, 2009. The report must be submitted to staff no later than June 18, 2009.
8. The City of East Bethel may require Mr. Friday to hire reliable, professional help to assist in the management of the horses on the property.
9. In the event formal complaints of animal negligence are submitted, Mr. Friday shall allow city officials, or their agents, at any reasonable times, on his property to complete inspections of the horses and the facilities.

10. Mr. Friday shall be notified in a reasonable amount of time that inspections will occur on the property, during normal business hours of 8:00 A.M. – 5:00 P.M.
11. Mr. Friday shall allow City officials or their agents on his property to complete random inspections to count the number of horses on the properties under his control.
12. The IUP shall be reviewed by City Council one year after approval. At that time, City Council may consider additional conditions to the IUP or may revoke the IUP should Mr. Friday fail to comply with the conditions of the IUP. Staff will review annually.
13. As part of the IUP, Mr. Friday will be required to obtain the appropriate permits with Ham Lake for grazable acreage on portions of the parcel not zoned rural residential. Mr. Friday will be required to submit the appropriate permits to the City of East Bethel, to be placed in the address file prior to the IUP being issued.
14. If Mr. Friday disagrees with staff calculation of grazable acres, Mr. Friday must submit a survey from a licensed surveyor to verify grazable acres.
15. Mr. Friday must submit a manure plan to the City for review and approval. City staff may periodically inspect the property for compliance.
16. All conditions of the IUP must be met no later than May 18, 2009 except for condition 7. Failure to comply with all the conditions will result in the revocation of the IUP.
17. The IUP has a term limit of three (3) years.

Friday acknowledged receipt and acceptance of the IUP with these conditions on June 24, 2009. In addition, he inserted the words “from date signed L. Friday” on page 2 of the Permit.

There is no evidence that the City agreed to Friday’s amendment to the Permit.

The Interim Use Permit was renewed before Friday was convicted of the mistreating animals charge on August 6, 2009.

13. On April 23, 2011, the Minnesota Animal Humane Society received a formal complaint from Cynthia Kaeder who lives in Apple Valley, Minnesota. Ms. Kaeder complained that Friday's horses were not adequately and consistently cared for. She reported some were thin, others needed Ferrier care, and there were poor sanitary conditions on his premises. In addition, Ms. Kaeder provided a 2-page typewritten report relating to her complaint, which the Hearing Officer has read.

14. On April 28, 2011, Karen Zerwas made a formal complaint to the Minnesota Animal Humane Society regarding Friday's horses. She claimed that the horses were not adequately or consistently cared for, that she was a past volunteer at the Ranch, and was on the ranch the last week of April. She also provided a typewritten report regarding the conditions, which the Hearing Officer has read.

15. On August 11, 2011, Terrie Lacrosse made a formal complaint to the Minnesota Animal Humane Society about conditions on Friday's farm. She stated the horses were not appropriately separated, consistently provided for, and some horses were thin.

16. On August 26, 2011, Gina Benson made a formal complaint to the Minnesota Animal Humane Society relating to the conditions on Friday's farm. She stated the horses were not adequately or consistently cared for, and that some horses exhibited significant signs of emaciation.

17. On August 29, 2011, Melissa Butter made a formal complaint to the Minnesota Animal Humane Society relating to the conditions on Friday's farm. She said she observed emaciated horses and that they were thin and neglected, and these conditions could be seen from the road.

18. Based on previous information, Investigator Streff was aware of Friday's Interim Use Permit and the conditions established by the City on March 18, 2009. Specifically, that Friday and the City agreed to use the Henneke Body Condition (BCS) Scoring System, which is a standardized scoring system for assessing the body condition of horses to evaluate the condition of the horses on his farm and determine a need for intervention to protect the animals. The scale runs from 1 to 10 with 1 being the worst condition.

Investigator Streff contacted Dr. Jeff Johnson from the Blue Sky Animal Hospital, who is referred to in the Interim Use Permit as the current evaluator for Friday's horses. In addition, Dr. Genieove Bergman was employed to act as assisting veterinarian.

19. At approximately 1:00 p.m. on August 29, 2011, Drs. Johnson and Bergman, accompanied by Anoka County Sheriff's Department investigator Michael Wahl and Keith Streff, investigator for the Minnesota Animal Humane Society, performed a herd evaluation on the horses located on Friday's farm. An inventory revealed that there were 65 horses on the property. 10 of the horses had a BCS score of 3 or less. 2 of the horses had a BCS score of 2 or less, and with Friday's agreement, these 2 were immediately transported to the University of Minnesota Veterinary Medical Center for evaluation and care. Friday refused to release any of the other horses.

On August 31, 2011, the Minnesota Animal Humane Society and the Anoka County Sheriff's Department executed a search warrant on Friday's property, and seized the 8 remaining horses which had a BCS score of 3 or less, and transported them to the University of Minnesota Veterinary Medical Center for evaluation and care. The horses removed from Friday's farm were evaluated by veterinarians at the University of Minnesota. Their reports conclude the horses were suffering from conditions symptomatic to emaciation and uncontrolled

parasite infestation. If unchecked, these conditions produce a consistent deterioration of health that eventually becomes acute. In the opinion of Investigator Streff, Friday “is engaged in behavior that demonstrates a pattern of culpable negligence that results in emaciation, suffering, and the eventual death of horses under his direct care and control.”

20. In the Animal Humane Society report regarding the conditions on Friday’s farm, which resulted in the seizure of 10 horses, the following comments were included:

- a. Many of the outdoor pens and paddocks have an excessive accumulation of feces and/or manure.
- b. The farm and paddock areas continue to be in a state of dilapidation that includes pens with antiquated fencing, sharp objects and other potential health hazards to horses.
- c. Many penned horses did not have access to adequate hay at the time of inspection.
- d. The water supply in many of the pens was algae ridden and/or contaminated.
- e. Numerous horses showed evidence of external parasite loads including lice.
- f. Horses needed Ferrier work and other horses suffered from internal parasites.

21. On November 14, 2011, Gina Benson made a formal complaint to the Animal Humane Society relating to the condition of horses on Friday’s property. She wrote that there are now 5-7 horses on the farm that allegedly score low body conditions, and at least one (1) horse has a BCS of one (1).

Also, on November 14, 2011, Investigator Wahl received a telephone complaint from a citizen about the treatment and health of horses on Friday’s property. The citizen expressed concern about contaminated water, emaciated horses, and poor fencing conditions that

posed a threat to the safety and security of the horses. The complainant also provided photographs of the horses on the property.

22. On November 16, 2011, the Anoka County Sheriff's Department executed a search warrant on Friday's property for the purpose of investigating the complaint and evaluating the health of the horses. Dr. Nicole Eller-Medina evaluated the horses using the BCS body scoring system. There were 37 horses examined, and 7 scored a BCS score of 3 or less. The 7 horses were seized and sent to the University of Minnesota Veterinary Medical Center for evaluation and care.

23. As a result of the investigation of the Anoka County Sheriff's Department and the Minnesota Animal Humane Society, on January 6, 2012, the prosecuting attorney for the City of East Bethel issued a criminal complaint alleging that on or about November 16, 2011, Lowell Friday committed 35 counts of gross-misdemeanor mistreatment of animals on his property located in the city of East Bethel, Anoka County, Minnesota. Those charges are still pending at the Anoka County District Court.

24. On March 16, 2012, Friday and Haivala applied for a renewal of Friday's Interim Use Permit. In the application they requested a permit to maintain 27 horses on the property, and claimed to have over 53 grazable acres of "linked" property. In support of the application, they eventually submitted a letter dated February 25, 2012 which was signed by Ms. Haivala as "Herd Manager" and Friday as "Owner," to Dr. Jeff Johnson, the veterinarian. In addition, they included a list of horses seen by Dr. Johnson on February 24, 2012; a copy of an advertisement dated January 23, 2012 relating to horses for sale; a copy of an email from Stephanie Hanson, City Planner, City of East Bethel, dated December 17, 2008; a copy of a letter from Ms. Hanson

dated March 24, 2008; a letter signed by Friday on March 18, 2012 and signed by Haivala on March 20, 2012 relating to various aspects of the application; a letter dated March 20, 2012 signed by Haivala containing her qualifications to serve as the farm manager; a Management, Care, Custody Control Contract dated January 15, 2012 and signed by Friday and Haivala on that date; a plat map, including sketches apparently by Friday or Haivala, relating to the “linked” property; a receipt for the IUP Application; a U.S. Department of Agriculture Farm Service Agency Abbreviated 156 Farm Record, which itemizes the type of property owned by Friday; a declaration sheet of an insurance policy of Friday’s property, effective February 6, 2012 for one (1) year; an excerpt of the Planning Commission Meetings of the East Bethel Planning Commission on January 22, 2008 containing a discussion of the conditions on Friday’s farm, apparently initiated by a news report on Channel 9 TV, relating to Friday’s Application for an Interim Use Permit; a copy of a letter from Anoka County Assessor’s Office dated March 15, 2012 relating to a Green Acre participant; a copy of an itemization of 27 horses seen by Dr. Johnson on December 6, 2011, and a letter to the City of East Bethel dated December 7, 2007 relating to the Horse Permit Application signed by Lowell and Trudy Friday.

25. As a result of the seizure of horses by the Anoka County Sheriff and Minnesota Animal Humane Society on November 16, 2011, Friday requested a Hearing pursuant to Minn. Stat. §343.235, subd. 3(b) on November 21, 2011. At that time, Friday contested the seizure of only one of the horses which was named Special Effects. The Hearing was held on December 5, 2011, before The Honorable Jenny Walker Jasper, Judge of Anoka County District Court.

In pertinent part, Judge Jasper found as follows:

Dr. Eller Medina examined 28 horses located on Friday’s property and determined that 7 of the animals had a BCS score less than 5.

**RESOLUTION NO. \_\_\_\_\_**

**CITY OF EAST BETHEL  
ANOKA COUNTY, MINNESOTA**

**A RESOLUTION DETERMINING FINDINGS OF FACT AND DENYING THE APPLICATION FOR INTERIM USE PERMIT AS APPLIED FOR BY LOWELL FRIDAY AND MARY HAIVALA, FOR THE KEEPING OF 27 HORSES AT 18215 GREENBROOK DRIVE, EAST BETHEL, MINNESOTA, PROPERTY IDENTIFICATION NUMBER: 34-33-23-33-0027 AND 33-33-23-44-0003.**

**WHEREAS**, the City of East Bethel received on March 16, 2012 an application by Lowell Friday and Mary E. Haivala for renewal or extension of an Interim Use Permit requesting permission to be able to keep 27 horses on the Lowell Friday property, identified as being located at 18215 Greenbrook Drive, Wyoming, Minnesota 55092, affecting Property further described as Anoka County Identification Numbers (PIN) 33-33-23-44-0003, and 34-33-23-33-0027.

**WHEREAS**, the City of East Bethel had previously issued an Interim Use Permit for the keeping of horses on the above-referenced properties, which had expired on March 18, 2012, and,

**WHEREAS**, Mr. Lowell Friday had been advised by the City Planner of the pending expiration date of his former IUP on at least two occasions substantially prior to March 18, 2012, and,

**WHEREAS**, City Ordinance prescribes the requirements that must be maintained consistently upon a property upon which horses are to be maintained, providing for the public health, animal health, and imposing reasonable animal care and shelter regulations, and,

**WHEREAS**, the Lowell Friday operations as proposed are classified as a Class III Horse Operation within the city, regulated under City Ordinance Section 10-154.5, and,

**WHEREAS**, the applicable provisions of City Ordinance 10-154.5 provides as follows:

“It is the purpose of this section to insure the health and safety of domestic farm animals in the city by establishing regulations governing animal shelters, corrals, paddocks, and the keeping of such animals in the city.

- (1) All newly constructed animal shelters must meet or exceed all requirements of municipal, county, and state building and fire codes.

- (2) The following apply to all regulated domestic farm animals:
  - a. All animals must be maintained to standards of health specific to the breed.
  - b. All animals must have access to potable water.
  - c. Veterinary records for each animal must be disclosed upon request of the city's designated inspector.
  - d. Animal shelters must be kept in a sanitary manner, free of the odor of ammonia, to the extent practicable.
  - e. A consistent and adequate food and water supply must be available to all animals.
  - f. Fencing must be kept in a manner consistent with Minn. Stats. §§ 344.01—344.20, as amended and renumbered from time to time.
  - g. All domestic farm animals must have access to a shelter.
  
- (3) Class II and class III horse operations in the city must also comply with the following additional requirements:
  - a. Class II and class III horse operations in the city will be inspected and evaluated annually as a requirement of the IUP for conformance with all applicable regulations. The costs of such inspection and evaluation must be paid by the holder of the permit as part of the annual permit fee. Nonpayment of such costs will be grounds for termination of the permit. In addition to a class III horse operation, an inspection by a doctor of veterinary medicine licensed to practice in Minnesota must accompany the city's inspector on all inspections. Failure to provide access for inspection will be grounds for termination of the IUP.
  - b. Stall doors must be in good repair and easily opened and closed.
  - c. An evacuation plan for humans and animals must be displayed in all animal shelters.
  - d. Grain and hay dust must be minimized to the extent practicable.
  - e. Aisles must be kept free of debris and impediments to movement by humans and animals.

- f. There must not be any protruding objects in any animal shelter which could cause injury to humans or animals.
  - g. Drainage must be adequate to prevent accumulations of water to facilitate cleaning of animal shelters and paddock areas.
  - h. Animal bedding must be clean and of a material customarily used for animal bedding purposes.
  - i. Lights and windows must be animal proofed to prevent breakage, to the extent practicable.
  - j. Grain and forage must be free from mold and miscellaneous debris, to the extent practicable.
- (4) The city's designated inspector and any peace officers of the state and all other personnel under the direction and control of the city whom the inspector believes necessary must be allowed access for inspection purposes on any parcel with an approved IUP upon 12-hours' notice. An application for an IUP under this article will be deemed the consent of the owner of the property to such inspections.
- (5) IUPs not in compliance with this article will be cited accordingly but may be granted time, at the city inspector's discretion, to come into compliance with the requirements of this section. In the event an extension of time is granted, a plan to implement the noncompliant requirements by an agreed upon date must be signed by the parties and filed at city hall. The plan must include clearly defined steps for coming into compliance, each of which must be completed by a specific date. Failure to complete the agreed upon steps by the specified dates will be grounds for termination of the IUP. In no case, however, may an extension exceed 75 days from the date of inspection, and only one extension can be granted."

*(Ord. No. 13, Second Series, 10-7-2009)*

**WHEREAS**, Lowell Friday has been previously charged in 2011 within the Anoka County District Court with criminal complaints with regard to the keeping of horses in a manner so as to constitute animal neglect, and,

**WHEREAS**, Lowell Friday has a previous conviction in 2007 for animal neglect regarding the care of horses in his possession, and,

**WHEREAS**, City Ordinance Section 10-151 regulates the issuance of Interim Use Permits, imposing acreage requirements for domestic farm animals, which provides:

“Sec. 10-151. - Interim use permit (IUP) and acreage requirements for domestic farm animals; nondomestic animals prohibited.

- (a) Nondomestic animals are not allowed to be kept within the city.
- (b) An IUP is required for the keeping of domestic farm animals as regulated by this article in the city. The procedure for the issuance of an IUP will be in accordance with the City Code.
- (c) No animal regulated by this article can be kept on a parcel of land located within a platted subdivision or on any parcel of land of less than three acres. Provided further, that if 80 percent of the lots within a platted subdivision are larger than three acres, an IUP for keeping a regulated animal may be issued for any of those lots larger than three acres.
- (d) Upon the transfer of the title of a parcel for which parcel an IUP is in effect on the effective date of this article, the new owner may apply for an IUP for the keeping of such animals if the existing permit is in effect and in good standing at the time the title to the property is transferred.
- (e) Meeting the acreage requirements set out in this section does not in and of itself entitle an applicant to an IUP.
- (f) IUPs in existence on the effective date of this article for parcels not in compliance with these acreage requirements will be allowed to continue but only as legal, nonconforming uses.
- (g) It is a requirement for all IUPs issued under this article that a minimum of one fenced acre of pasture land plus any indicated fraction thereof must be provided for each animal unit described below as the animal equivalent for the animal to be kept pursuant to the IUP.
- (h) The following equivalents will apply when determining the animal units defined below:

<b>Animal</b>	<b>Animal Units Per Acre</b>
1 Swine	0.4
1 goose or duck	0.2
1 goat or sheep	0.5

1 turkey	0.10
1 bovine	1.4
1 equine	1.0
1 chicken or pheasant/quail	0.01
1 emu or ostrich	1.0
1 alpaca or llama	1.0

(i) Animals may graze within shoreland and bluff impact zones provided permanent vegetation is maintained and a plan has been submitted that is consistent with the technical guides of the Anoka Conservation District.

(j) *Exceptions.*

(1) Youth development organizations may apply for an IUP in accordance with section 10.157. The IUP shall cover individual groups and members of the youth development organization; IUP application fees shall be waived. The IUP shall expire five years from the approval date at which time the organization must reapply for the IUP. In conjunction with the organization's approved IUP, individual members shall comply with the following:

- a. Each member of the organization must complete a youth development project permit application prior to farm animals being kept on the property. The permit will be reviewed by city staff within two weeks of submittal of a completed application.
- b. It is a requirement for all permittees to have a minimum of one acre of pasture land to accommodate the farm animals.
- c. Permittee must comply with all other farm animal regulations set forth in the code.
- d. Approved farm animals must be removed from the property within 30 days of the expiration of the permit.
- e. In the event a permittee would like to keep the farm animals after the expiration of the project permit, an individual IUP must be applied for and approved. The permittee must meet requirements of the code.

(2) Domestic farm animals with an animal unit of 0.01 or less per acre are permitted without an IUP with the following conditions:

- a. A maximum of ten animals may be kept on a parcel with a minimum of one acre of pasture land without an IUP so long as all other requirements set forth in the code are met.
- b. The keeping of 20 plus animals requires an IUP and must meet all requirements set forth in the code, including acreage.”

*(Ord. No. 13, Second Series, 10-7-2009)*

And,

**WHEREAS**, the keeping of horses under the City’s Ordinance would require 1 acre per animal for a minimal dimensional requirement regarding the keeping of horses, and,

**WHEREAS**, the City Council directed that an independent Hearing Examiner be engaged to conduct a public hearing, make findings, and make recommendations to the City Council relative to the application submitted by Mr. Friday and Ms. Haivala, and,

**WHEREAS**, the City Council for the City of East Bethel is in receipt of the Hearing Examiner’s report and recommendations, a true and correct copy of which is annexed hereto as Exhibit A and incorporated by reference herein, and,

**WHEREAS**, the City Council for the City of East Bethel approves of the Hearing Examiner’s findings and recommendations, and,

**WHEREAS**, the City Council finds that Mr. Lowell Friday and/or Ms. Haivala know that horses kept under his direction and control have not been cared for within the terms and provisions of the City Ordinance Section 10-151 and 10-154.5 with regard to the keeping of animals so as to promote animal health, and to comply with the animal shelter regulations of the City of East Bethel, and,

**WHEREAS**, the City of East Bethel finds that Mr. Lowell Friday and/or Ms. Haivala are not capable of providing for horses upon the property of Mr. Friday located at 18215 Greenbrook Drive, and have not demonstrated their ability and capacity to comply with the terms and provisions of the City’s Ordinances with regard to animal health and animal shelter regulations, have not provided any credible evidence with regard to their resources, financial and otherwise so as to secure the proper care and treatment for horses and their care at that location, have in the past repeatedly failed to provide consistent wellness and care for animals under their direction and control at that location, and have not provided the City or the Hearing Examiner with any credible evidence that would allow the City to determine that past deficient conditions on the Lowell Friday property have been corrected and credible processes have been put in place to secure the welfare of animals now kept on that site, or proposed to be stored under the purposes of the Permit as applied for.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council for the City of East Bethel as follows:

That the Application as submitted, dated March 16, 2012 by Lowell Friday and Mary E. Haivaila, be and the same, is hereby denied.

Passed by the City Council for the City of East Bethel this 20<sup>th</sup> day of June, 2012.

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Richard Lawrence, Mayor

ATTEST:

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Jack Davis  
City Administrator

It was her opinion that a horse with a BCS of 3 or less is subject to seizure. Dr. Eller-Medina physically examined all horses and scored four horses as a 1 and three horses as a 2. These horses were seized. One horse, a 2 year old filly named Crystal, was given a BCS of 1, was extremely hard to load into the horse trailer and collapsed multiple times prior to loading. Crystal was found to have a grade 3 heart murmur due to malnutrition and dehydration. Dr. Eller Medina administered a rescue steroid that gave the horse sufficient strength to get back on its feet and load it into the horse trailer. At the time, Dr. Eller Medina and representatives of the Animal Humane Society discussed the possibility that Crystal would have to be euthanized at the scene.

A veterinarian observed the feed located on the property and testified that the available hay was of poor quality and garbage was visible in the bales, and the only available water source that she found was to be half-full, dark and full of debris.

There was testimony by Friday, his witnesses, and various witnesses called on behalf of the Animal Humane Society.

Judge Jasper found that:

“Mr. Friday does not have the ability to provide appropriate care and feeding for Special Effects. Mr. Friday had control over Special Effects’ care during the period of time her health deteriorated and was under his care that she became malnourished, infested with lice and did not receive appropriate care for horses such as hoof care, and parasite testing or medication. Additionally, Mr. Friday refuses to admit that this horse is underweight and malnourished, instead, claiming that her weight is appropriate.”

Judge Jasper concluded that the horse “Special Effects” was not physically fit, and that Friday cannot provide the care required by law for Special Effects.

As a result, the Animal Humane Society was given full control and custody of Special Effects and authorized to determine an appropriate placement for the animal.

26. At the Hearing on May 14, 2012, the City of East Bethel asserted that Friday has 25.5 acres of grazable land, which is one of the criteria for issuance of an Interim Use Permit.

27. At the Hearing, Friday did not speak, but he was represented by his attorneys who spoke on his behalf.

28. Mary Haivala spoke at the Hearing, and asserted that she has the experience and ability to take care of the horses owned by Friday on his property.

29. Karen Zerwas spoke at the Hearing. Ms. Zerwas had been on Friday's property many years earlier when he had 76 horses on the premises, and also during August 2009 when she was helping as a volunteer. It was her opinion that Friday had too many horses on the premises and could not properly care for them.

30. Sharon Reilly spoke at the Hearing. Ms. Reilly had previously worked for Friday and lived in the home on his premises. She left that employment in August 2011. She noted that the horses are not "broke" and lived in piles of manure.

31. Dr. Bartman-Mork and her 12 year old daughter spoke at the Hearing. Dr. Bartman-Mork made complaints to the Minnesota Animal Humane Society about the condition of the horses on Friday's farm in 2007, but was told there was nothing that could be done at that time. She has continued to be concerned about the condition of the horses on the farm, and she, in fact, purchased several of them, and restored them to health.

32. Gina Benson, who represents the Wisconsin Equine Rescue and Youth Ranch, spoke at the Hearing. She discussed the reasons for skinny horses, which, in her opinion, are poor health, poor nutrition, parasites, and various medical conditions. In April 2011, she was contacted by concerned persons for assistance in helping the horses on Friday's property. At that time, she personally observed the condition of the herd and was concerned about the health and safety of the animals.

33. On August 29, 2011, Friday had 71 horses plus one (1) boarded horse. Many of the horses which were seized and adopted by other persons did well.

At that time, the hay on Friday's farm was tested and had no value and was only useful for fiber, which was not nutritious and would only keep horses alive. There was no proper grain.

34. Beth Wilson spoke at the Hearing. She had taken "Easy Dancer," one of Friday's horses, in September 2011, and within 3 months had him up to a 4-rating on the BCS scale. She believed the horse was scared, and after her care, she was able to adopt him out in April 2012. She gilded him, fixed his teeth, and repaired his feet which were in poor condition.

35. Russell Peterson spoke at the Hearing. He owns a farm in Isanti County, Minnesota, which is zoned agricultural, and is concerned about a precedent which may be set if the City denies Friday's application for a renewal of his IUP.

36. As a part of the Hearing Officer's review of the facts in this proceeding, the Officer reviewed the following documents provided to him by the City of East Bethel:

1.	Criminal Complaint	1/6/2012
2.	Reissued Interim Use Permit (IUP) Agreement	3/18/2009
3.	Animal Humane Society Formal Complaint Forms	4/23/11 – 11/11/11
4.	Animal Humane Society – Animal Neglect Investigation	8/29/2011
5.	Animal Humane Society – Inspection Assessment Report	8/30/2011
6.	Animal Humane Society Custodial Releases	8/29 & 8/31
7.	Anoka County Sheriff's Office – Police Report	8/31/2011
8.	Search Warrant Documents	8/31/2011
9.	Anoka County Sheriff's Office – Police Report	11/16/2011
10.	Search Warrant Documents	11/16/2011
11.	Animal Humane Society – Animal Neglect Investigation	11/16/2011
12.	Animal Humane Society – Inspection Assessment Report	11/21/2011
13.	Declaration of Ownership & Request for Hearing	11/22/2011
14.	Findings of Fact Conclusions of Law & Order – Special Effects	1/6/2012
15.	Statement from Christopher Madrigal	12/1/2011
16.	U of M Patient Discharge Instructions – IRS	8/29/2011
17.	U of M Patient Discharge Instructions – Docs Gold	8/29/2011
18.	U of M Patient Discharge Instructions – Painted EZ	8/31/11

19.	U of M Patient Discharge Instructions – King of Spots	8/31/11
20.	U of M Patient Discharge Instructions – E-Z Dancer	8/31/11
21.	U of M Patient Discharge Instructions – Patty	8/31/11
22.	U of M Patient Discharge Instructions – Derby Belle	8/31/11
23.	U of M Patient Discharge Instructions – Little Lady	8/31/11
24.	U of M Patient Discharge Instructions – Black Magic	8/31/11
25.	U of M Patient Discharge Instructions – Libby	8/31/11
26.	U of M Rehabilitation Summary	
27.	U of M Doctor’s Letters	8/30/11 & 9/7/11
28.	U of M Patient Discharge Instructions – Special Effects	11/16/2011
29.	U of M Patient Discharge Instructions – Pia	11/16/2011
30.	U of M Patient Discharge Instructions – Tuxedo	11/16/2011
31.	U of M Patient Discharge Instructions – Sally	11/16/2011
32.	U of M Patient Discharge Instructions – Crystal	11/16/2011
33.	U of M Patient Discharge Instructions – Elderberry	11/16/2011
34.	U of M Patient Discharge Instructions – Little Joe	11/23/2011
35.	U of M Rehabilitation Summary	
36.	U of M Photographs	8/29/2011
37.	U of M Photographs	8/31/2011
38.	Animal Humane Society Photographs	9/13/2011
39.	Animal Humane Society Photographs	11/16/2011
40.	U of M Photographs	11/17/2011
41.	2007 Criminal Investigation	
42.	Lowell Friday Aerial Property Photographs	
43.	Affidavit of Publication	01/11/2008
44.	Lowell Friday Application for renewal of IUP/Land Use Application	03/16/2012
45.	City of East Bethel Notice to Friday of 60-day extension of IUP	04/27/2012
46.	Notice of Public Hearing	05/01/2012
47.	Certificate of Mailing of Notice on Public Hearing for Interim Use Permit	05/04/2012

37. The Hearing Officer reviewed the contents of Article V – Farm Animals of the City of East Bethel, which regulates Class III Horse Operations such as that being conducted by Friday.

38. In support of his Application, Friday submitted six (6) pages of Petitions entitled “Petition For The Renewal Of My IUP” with a total of 30 names. The majority of the signers

lived in East Bethel and Ham Lake, but there were some from various other locations such as Isanti and Andover.

39. An email was submitted in support of Friday's application from Diane Jorgenson, who lives in the vicinity of Friday's farm.

40. Friday also submitted a list of 26 horses that were examined by Dr. Johnson on December 5, 2011. All but 2 of these animals had a BCS of 5, and the other 2 were rated 4.5.

41. Friday submitted another herd report of an inspection by Dr. Johnson on February 24, 2012 on 27 horses. Again, all but 2 of the animals were rated 5, and one of the 2 was 4.5 and the other was rated 4.

42. Friday submitted a letter to Dr. Johnson dated February 25, 2012 signed by Friday and Haivaila explaining to Dr. Johnson the remedies which have been taken to assist the 2 horses which had a score of less than 5 on the Herd Report on February 24, 2012.

43. The sections of the East Bethel City Code which relate to this proceeding are contained in Article V, specifically Section 10-153. Manure, Rodent, and Insect Management, which states that manure must be handled or treated in such a manner as to not create a public and/or private nuisance, paddocks or similar enclosures must be maintained in a manner that minimizes concentrations of breeding insects and rodents, and stockpiling of manure requires a manure management plan that meets requirements set by the Minnesota Pollution Control Agency.

Further, Sec. 10-154. Care and Maintenance of Animals states that no animal regulated under this article shall be treated cruelly or inhumanely by any person or in violation of any provision of Minn. Stats. Ch. 343, as amended and/or renumbered from time to time.

Also, Sec. 10-154.5. Animal Health and Animal Shelter Regulations states all animals must be maintained to standards of health specific to the breed, must have access to potable water, shelters must be kept in a sanitary manner, consistent and adequate food and water supply must be available to all animals, and fencing must be kept in a manner consistent with Minn. Stat. §§ 344.01 – 344.20, as amended and renumbered from time to time.

44. Following a submission of Friday and Haivala's application, the City Staff investigated and made a recommendation to the City Council that Friday's application for the Interim Use Permit be denied for the following reasons:

- a. Friday has demonstrated an inability to properly and consistently care for horses.
- b. Friday's proposal to use another person to provide that service is inadequate and incomplete, lacks details, continuity, and assurances of long-term performance, fails to demonstrate professional and long-term service being secured for necessary provisions for quality and consistent care needed to comply with Ordinance requirements.

45. A Hearing Officer was appointed to conduct a Public Hearing on the Application which was held on May 14, 2012 at the City Council chambers in the City Hall of the City of East Bethel.

#### **DISCUSSION**

1. Should the Hearing Officer have continued and rescheduled the Hearing as requested by Friday?

At the beginning of the Hearing, Friday's lawyers requested the Hearing Officer continue the Hearing based on Friday's pending criminal charges, and also to afford Friday and the City with an opportunity to discuss settlement of the issues in dispute.

On the advice of his attorneys, Friday declined to comment at the Hearing.

This Hearing is in the nature of a civil case, and it was audio and visually recorded.

The pending charges against Friday at the Anoka County District Court are criminal, and pursuant to his rights under the 5<sup>th</sup> Amendment of the United States Constitution, and Article I, Section VII of the Minnesota Constitution, he cannot be compelled to testify against himself. Whatever he might have said at the Hearing, while not under oath, could potentially be used against him in the criminal proceeding. Thus, the pendency of the criminal case does affect Friday's opportunity to speak in support of the request for renewal of the Interim Use Permit. This fact does not, however, prevent the Hearing Officer from proceeding with the Hearing.

Friday and his attorneys knew in advance, and made a decision to have Friday decline to speak at the Hearing. They had ample time to prepare for this contingency. At the Hearing, his attorneys suggested they might request a Court to issue an injunction enjoining the City from continuing with the Hearing. The Hearing Officer invited the attorneys to proceed in that manner, and indicated that if a Court of competent jurisdiction did issue an injunction, it would be followed by the Hearing Officer. Friday's attorneys declined to seek to enjoin the Hearing.

It is not a violation of Friday's right against self-incrimination or right to due process of law to conduct this quasi-civil proceeding, and, therefore, the Hearing Officer was justified in proceeding under these circumstances.

Friday's attorneys also requested the Hearing be continued to provide Friday and the City the opportunity to meet and negotiate a settlement of the issues in dispute. Stephanie Hanson, the City Planner and Mark J. Vierling, the City Attorney, were present at the Hearing, and when asked by the Hearing Officer if the City was interested in negotiating a settlement, they both stated the City did not wish to delay the resolution of the dispute and continue the Hearing, and, therefore, declined the offer to attempt to reach a settlement.

2. Is Friday's request for a new Interim Use Permit, or a renewal of the existing Interim Use Permit?

The Interim Use Permit under which Friday has been operating his horse farm was issued by the City of East Bethel on March 18, 2009 with a condition that it expire in 3 years. There is some information in various documents which have been provided to the Hearing Officer that Mr. Friday had a prior Interim Use Permit, but the date of the issuance of that permit, its conditions, and the date of its expiration are unknown to the Hearing Officer.

As mentioned in No. 12 of the Findings of Fact, Friday acknowledged receipt and acceptance of the conditions contained in the Interim Use Permit on June 24, 2009. In addition, he inserted the words "from date signed L. Friday" on page 2 of the Permit. There is no evidence the City agreed to Friday's amendment to the Permit, and, therefore, the Permit went into effect on March 18, 2009.

On March 16, 2012, Ms. Haivala as Applicant, and Friday as Owner, applied for a renewal of the Interim Use Permit. Mr. Friday and Ms. Haivala were timely in their request for a

renewal of the Interim Use Permit, and, therefore, this proceeding is a request for a renewal and not a request for a new Interim Use Permit.

3. Should the City issue either a renewal of the Interim Use Permit, or a new Interim Use Permit?

As indicated above, the Hearing Officer finds that the Application by Haivala and Friday is a request for a renewal of an Interim Use Permit.

Lowell Friday is a 71 year old operator of a Class III Horse Farm in the City of East Bethel, Anoka County, Minnesota. He has operated the Horse Farm on his premises since at least 1984.

Generally, an Interim Use Permit such as the one effecting Friday's property "runs with the property" and is valid for an indeterminate period as long as the property is used in accordance with the Permit. When the City of East Bethel issued the Interim Use Permit on March 18, 2009 with substantial conditions, the City Administration and City Council were concerned about the conditions on Friday's farm and, if he was able or willing to provide the horses with proper care and management.

Mary Haivala is presently employed by Friday as the Manager of his horse herd. They have entered into a Management Agreement, and Ms. Haivala has signed an 8 year lease for residential premises on Friday's farm. The Hearing Officer listened carefully to Ms. Haivala's comments relating to her position as Herd Manager, and read her letter to the City describing her qualifications.

Haivala is a 47 year old woman with two children, ages 13 and 14, who resides in a residential premise on Friday's property. Her experience with the care and management of

horses is “hands on,” but she lacks any type of education or professional qualifications which would prepare her for management of a horse herd the size of Friday’s.

The Management, Care, Custody Control Contract dated January 15, 2012 signed by Friday and Haivala is vague and does not provide Haivala with the type of management control and financial resources to properly manage the horse herd.

As stated by Deputy Sheriff Michael Wahl, Anoka County Sheriff’s Office, in his sworn Affidavit in support of the issuance of a search warrant on November 16, 2011, since at least 2002 the Sheriff’s Office received many complaints about the mistreatment of animals and the welfare of horses on Friday’s farm. In addition, the Animal Humane Society also received dozens of complaints about the maltreatment of horses on his farm. Eventually, in August 2009, Friday pleaded guilty to a misdemeanor count of mistreating animals, which occurred on October 11, 2007.

In the meantime, the City of East Bethel administrators and City Council issued an Interim Use Permit to Friday on March 18, 2009. The City was obviously concerned about the conditions on Friday’s farm, and attached numerous conditions to the issuance of the Interim Use Permit. The Hearing Officer was not provided with any evidence of compliance by Friday with the numerous Permit conditions.

As a result of numerous citizen complaints to the Minnesota Animal Humane Society and the Anoka County Sheriff’s Office, another investigation into the conditions on Friday’s farm was made in August 2011. On August 29, 2011, investigators with the Minnesota Animal Humane Society and Anoka County Sheriff’s Office conducted an inventory of Friday’s herd. At that time, they found 10 horses had a BCS score of 3 or less, 2 had BCS score of 2 or less, and these 2 were immediately removed from the premises and transported to the University

of Minnesota Veterinary Medical Center for evaluation and care. Friday refused to release the other 8 horses which had a BCS score of 3 or less.

On August 31, 2011 a search warrant was executed on Friday's property, and the 8 horses which had a BCS score of 3 or less were seized. At that time, the investigating officers reported the horses were suffering from conditions symptomatic to emaciation and uncontrolled parasite infestation. In the opinion of Investigator Streff of the Minnesota Animal Humane Society, Friday was "engaged in behavior that demonstrates a pattern of culpable negligence that results in emaciation, suffering and eventual death of horses under his direct care and control." In addition, at that time, it was observed that many of the outdoor pens and paddocks had excessive accumulation of feces and/or manure, the farm and paddock areas were in a state of dilapidation that included pens with antiquated fencing, sharp objects and other potential health hazards to horses, many of the penned horses did not have adequate access to hay, the water supply to many of the pens was algae ridden or contaminated, numerous horses showed evidence of external parasite loads, including lice, and the horses needed Ferrier work and some suffered from internal parasites, the hay lacked nutritional value and was contaminated and there was inadequate grain. Based on the investigation, the results of the search warrant and the observations of the investigating officers, it is clear that in August 2011, Friday was not properly caring for the horses on his premises and in violation of the Interim Use Permit.

On November 16, 2011, the Anoka County Sheriff's Department executed another search warrant on Friday's premises for the purpose of investigating complaints and evaluating the health of the horses on the property. Thirty-seven horses were examined and 7 scored a BCS score of 3 or less, and the 7 horses were seized and sent to the University of Minnesota Veterinary Medical Center for evaluation and care.

After the seizure on November 16, 2011, Friday contested the seizure of one of the horses named Special Effects. In accordance with Minnesota law, a hearing was conducted before Judge Jasper at the Anoka County District Court on December 5, 2011 related to the seizure of Special Effects. At that time, Judge Jasper found that the attending veterinarian examined the 7 horses seized and scored 4 horses as a 1 and 3 horses as a 2 on the BCS scale. One horse named Crystal was so ill, they had difficulty loading the horse into the horse trailer for transport. In addition, the veterinarian observed that the feed and hay located on the premises was of poor quality, with garbage visible in the bales, and the only available water supply was half-full, dark, and full of debris.

In her conclusions, Judge Jasper found that Friday did not have the ability to provide appropriate care and feeding for Special Effects, and that he did have control over her care during the period of time her health deteriorated and that she was under his care when she became malnourished and infested with lice. She did not receive appropriate care for her hoofs, and parasite testing or medication. In addition, in spite of the evidence, Friday refused to admit the horse was underweight and malnourished, and claimed that her weight was appropriate.

Jasper authorized the seizure of "Special Effects" because she was not physically fit, and because Friday could not provide the care required by law. As a result, the Animal Humane Society was given full control and custody of Special Effects and authorized to determine an appropriate placement for her.

As a result of the seizures on November 16, 2011 and the conditions observed on Friday's farm, the City of East Bethel's City Attorneys charged Friday with 35 counts of gross-misdemeanor maltreatment of animals, and that criminal case is still pending at the Anoka County District Court.

In summary, in less than a 3 month period, between September 29, 2011 and November 16, 2011, 17 horses under Friday's care were seized from his farm and transported to the University of Minnesota Veterinary Medical Center for care. It is unclear to the Hearing Officer what finally happened with the seized animals, but there was some discussion at the Hearing that at least 2 of them were euthanized.

In preparation for his application for renewal of the Interim Use Permit, Friday enlisted the services of Haivala to act as Herd Manager for his farm. They signed the Management Agreement, Ms. Haivala signed an 8-year lease for residence on Friday's property, and she signed the Land Use Application as the "Applicant."

The two herd reports submitted by Dr. Johnson relating to the examinations in December 2011 and February 2012 show some improvement in the overall health of the horses on Friday's farm.

The application for renewal of the Interim Use Permit was for 27 horses on Friday's farm. Friday only has 25.5 grazable acres, which in accordance with the East Bethel City Code would permit him to maintain a maximum of 25 horses on the premises.

The conditions on Friday's farm which led to the seizure of 17 horses between September and November 2011 have been a concern of the Anoka County Sheriff's Department, the Minnesota Animal Humane Society, and many citizens for at least 10 years. Despite his prosecution for maltreatment of animals in 2007, Friday failed to alleviate the conditions which resulted in the numerous complaints. The employment of Haivala appears to be nothing more than window dressing designed by Friday to gain reissuance of the Interim Use Permit without a true change in the actual conditions on the farm. Haivala and Friday have failed to provide the Hearing Officer with evidence that the herd is being properly managed, and that the unsafe,

dangerous and unhealthy conditions, which have resulted in long standing abuse of horses, have been alleviated. No evidence was produced regarding the conditions of the sheds, barns, paddock areas, and that the horses were being properly nourished and watered as required by Minnesota law, the City Code and the Interim Use Permit.

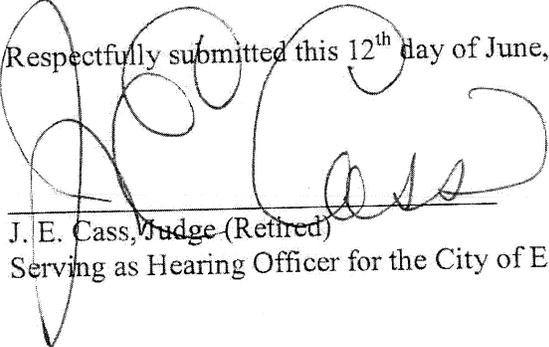
In summary, the Hearing Officer concludes that Friday has done nothing to make significant changes in the conditions on his farm, and if he has done so, he has failed to provide evidence of those changes which would support a decision to recommend to the City that the Interim Use Permit be renewed.

Based on the foregoing findings of fact, conclusions and discussion:

**IT IS HEREBY RECOMMENDED:**

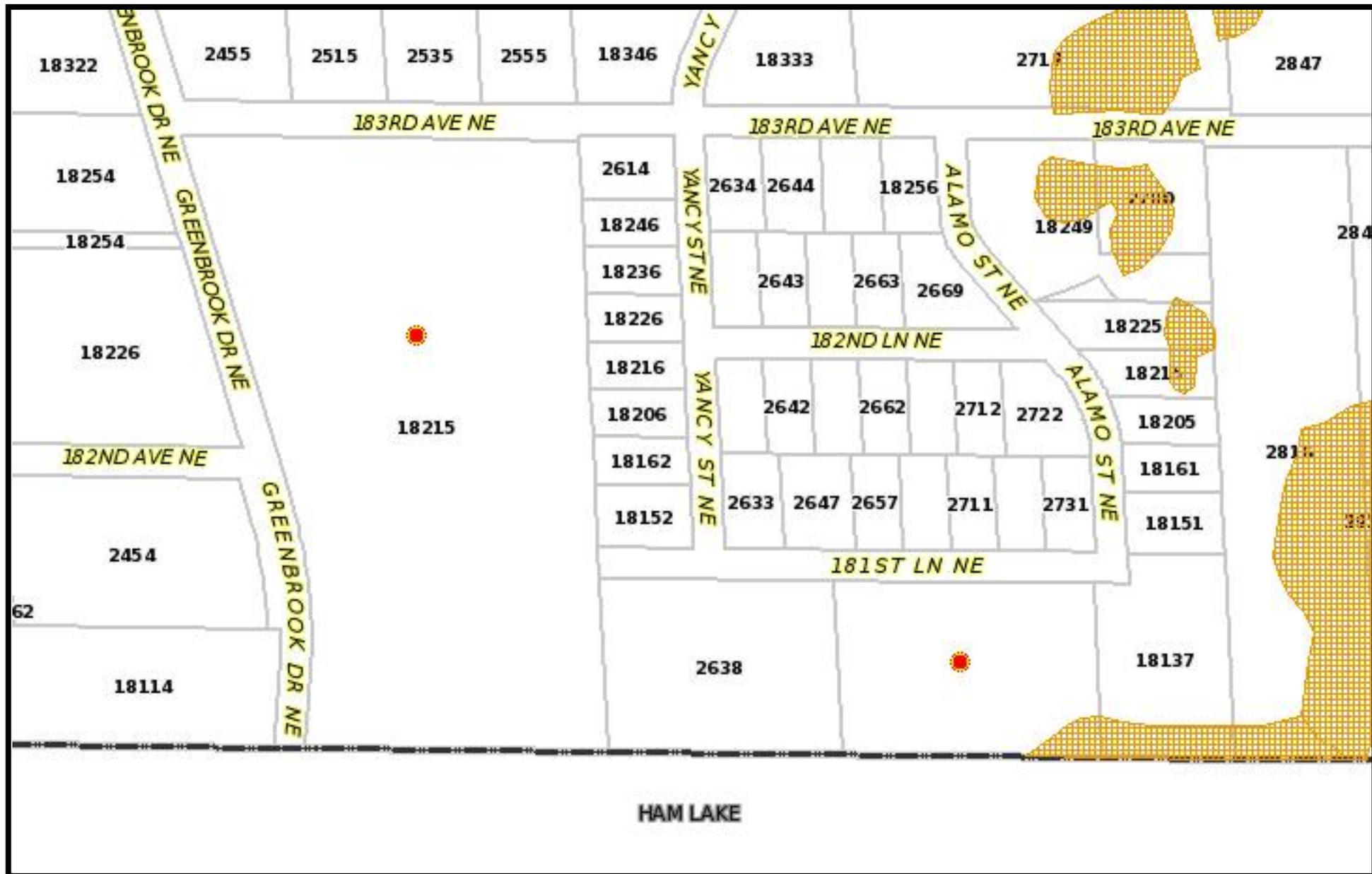
The City of East Bethel should deny the reissuance of the Interim Use Permit to Friday and Haivala.

Respectfully submitted this 12<sup>th</sup> day of June, 2012.

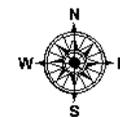


J. E. Cass, Judge (Retired)

Serving as Hearing Officer for the City of East Bethel, Anoka County, Minnesota.



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# LAND USE APPLICATION

OFFICE USE ONLY	
Date Rec'd	3/14/12
By	<i>[Signature]</i>
Fee \$	150
app. fee	

Check appropriate box:  VARIANCE  CUP  IUP  FINAL PLAT

BUSINESS CONCEPT PLAN  PRELIMINARY PLAN  SITE PLAN REVIEW  OTHER Renewal

3 Linked Properties

Application shall include the following items and be submitted thirty (30) days prior to scheduled meeting date.

Application is hereby made for Renewal or Extend 3 Year (provide narrative below describing proposed use).

*horse permit. See attached sheets & information* 53<sup>A</sup> total  
21 in East Bethel - May on 3 Linked properties *Print # 03-32-23-22-0003*  
*Call attached property Home solicited* *Print # 34-33-23-33-0007*  
 LOCATION: PID 3333 2344 0003 Legal: Lot      Block      Subdivision     

PROPERTY ADDRESS: 18215 Greenbrook Dr. Wyoming Mn. 55092 PRESENT ZONING: Farm # 83

PROPERTY OWNER will send cover letter on Tuesday call if you need more information

CONTACT NAME: Lowell G Friday PHONE: 763-434-4496

ADDRESS: 18215 Greenbrook Dr FAX:     

CITY/STATE/ZIP: Wyoming, Mn. 55092 E-MAIL:     

**APPLICANT**

CONTACT NAME: Mary E. Haivala PHONE: 763-434-4800

ADDRESS: 18165 Greenbrook Dr NE FAX:     

CITY/STATE/ZIP: Wyoming, Mn. 55092 E-MAIL: maryhaivala@hotmail.com

I fully understand that I must meet with City Staff to review all submission requirements and conditions prior to official submission, and that all of the required information must be submitted at least thirty (30) days prior to the Planning/Zoning Commission and City Council scheduled meeting dates to ensure review by City Staff.

Property Owner's Signature: *Lowell Friday* *Ch # 25918 for 3 years - \$150.00 fee* Printed Name: Lowell Friday Date: March 16 - 2012

OFFICE USE ONLY - DO NOT COMPLETE			
	Received	Approved/Denied	Notes
Community Dvlp.			<u>IUP - 12 - 03</u>
Planning Commission	<u>4/24/12</u>		
7:30pm City Council	<u>5/2/12</u>		
	<u>5/14/12</u> 60 Day	<u>7/12/12</u> 90 Day	

Attachment #2

18215 Greenbrook Dr NE

Wyoming, MN 55092-9510

2/25/2012

Dr. Jeff Johnson

26850 Kettle River Blvd.

Wyoming, MN 55092

Dear Dr. Jeff Johnson:

This is in response on the herd check that you completed on, 2-24-2012. Thank you for coming out.

Summer Rain is better with no limp at all. The kids and Mary are exercising her up and down the alley way in the barn. Daily video in barn to keep animal rights and rescue from graining her again as you suggested before they could kill her like they did Lil Joe Cartwright. Thank you for assuring Mary and the kids that she will be all right after their second try to do her in. Will keep her in stall for 2 weeks or more till I get video on pen so H.S. animal rights or rescue will get caught trespassing, or over graining her or any other horses on the property.

Fancy's wound has healed over and she is doing fine. It is about the size of a quarter and she never has favored it. So we are no longer wrapping it.

Wild Flower was the lowest rated on the BCS est. of a 4 BCS, we put her on even more feed as she will eat. You had guessed her weight at; about 960lbs. and asked us to run a weight tape on her. We weight taped her again, currently by weight tape she is at 998 lbs. as a BCS 4, 38lbs heavier than your guess. The check before this check on 2-24-12 you gave her a BCS of a 5 with a weight tape measurement of 926lbs, 72 lbs she had gained between checks but by your opinion she lost 1 BCS. We also took pictures as you suggested both times. If we can get her to eat more she should keep gaining at same rate or more and end up weighing approx. 1070 lbs. or a 6 BCS on weight to height chart. Well over the Saddlebred Registry weight for a BCS 5 of 950 lbs. at her height.

The other one was weight taped at; 1054 and you rated her a 4.5 on the BCS. All 3 are getting an extra scoop of grain, a.m. and p.m. as 1/4, 1/2, 3/4 and then a full one as not to founder them. You also had estimated that the bales weighed 40 lbs. and we thought it was 60 lbs. We weighed the bale and it was 68 lbs. So we are feeding more by weight than estimated at a bale each horse with an extra one in the larger pens per day as; 1/2 a.m. and 1/2 p.m. Plus 2 scoops a.m. and 2 scoops p.m. with the exception of 3 that you want fed more.

If you have a new herd check sheet done with up to date worming and trimmed hoofs, please send. Summer Rain is on list to be done again as I explained. Others are getting chips and a little long, but as you seen there are no big hoof problems. We are completing 3 or 4 on weekends with Farrier.

Have orders for compost and will clean pens as weather permits.

Herd Manager Mary E. Hainan Property Owner Yvonne L. Linton

Date: 2-25-12

Date: 2-25-12

Cc: Attorney

Robert Richman Date: 2-25-12

March 20, 2012

Mary E. Haivala

18165 Greenbrook Dr NE

Wyoming, MN 55092

763-434-4800

maryhaivala@hotmail.com

I have been around horses since I was about 2-3 yrs old. I started working with different stables around my 18th.yr.and have continued on and off throughout the years. Some of these stables included were; a Tennessee Walker Establishment, Riding Academy's, boarding facilities and riding stables, as well as having a horse when I was younger.

Some of my job ethics are; I am a very conscience person, ability for working with different kinds of people. Attention to detail. Following any individual health care plans as well as able to design a health care plan to meet an individual's own needs, which not only can be applied to people but also to horses.

The job duties that I have performed throughout the years working with horses were depending on the type of farm, ranch, or stable.

The work of a barn manager may include duties that, in a stand-alone position, might also come under such headings as assistant trainer, farm assistant or groom.

Below is a list of jobs duties that I have performed.

Cleaning stalls.

Providing hay, feed, rations or supplements, and water. Cleaning buckets and tubs in the feeding process.

Grooming, saddling, unsaddling and bathing horses. Cleaning all horse equipment.

Hand walking horses. Lunging horses.

Turning horses into pasture or turnout.

Maintaining the barn area-sweeping, washing, and general cleaning. Laundry of horse gear.

Administering medications and appropriate bandaging. First Aid delivery to horses. Following instructions from a trainer, Farrier, veterinarian, or other equine care provider. Handling horses for the veterinarian, Farrier, or trainer during medical or other treatments.

Monitoring and maintaining level of feed, hay and bedding in stock.

Loading and unloading horses from trailers. Braiding the mane and/or tail for show. Trimming a horse's coat with clippers (face, legs, and ears). Totally clipping a horse for winter with clippers (entire body). Traveled to and from horse shows. Unpacking equipment at the show grounds, preparing the stall, and acclimating the horse(s) to the new surroundings.

Ordering supplies when necessary.

Farm maintenance and repairs. Worked with small farm equipment.

Handled horses in the breeding shed. Implementing exercise routines.

Training in general manners, correcting behavioral issues.

I have moved down onto the property of Lowell Friday for the love I have for horses and for the opportunity to continue to be around these majestic animals.

Sincerely ,



Date: 3-20-12

**Mary E. Haivala**

RECEIVED

MAY 09 2012

**MANAGEMENT, CARE, CUSTODY  
CONTROL CONTRACT**

BY: JEB

JANUARY 15<sup>TH</sup>, 2012

Management, Care, Custody and Control to be given to Mary E. Haivala of current 27 horses including any horses out on lease, or on contract sale come back to Property.

Providing complete dietary needs of said horses including; times to feed, amount of feed, complete instructions to anyone helping. Followed by inspection of work done by others on completion.

Cleaning Pens, feeders, water tanks, repairs to fences and buildings as needed. Do Vet Herd check and all necessary items for IUP.

Lowell Friday will be responsible for the Vet and Farrier costs if funds aren't available. As Management requests. Including providing the feed.

Written notice shall be given to Lowell Friday of items needing repairs or cleaning To aide in getting this done.

Repairs on ranch and care, custody and control of horses shall be 100% applied for current and future rent.

Compensation of work stated above from Management; Mary E. Haivala Max. \$500.00 per month allowed in exchange for rent can be carried over for future months rent. Further more any horses that are out on lease or sold on contract that come back, are released / resold, 1/2 of monies taken in will be applied toward current or future rent for Mary E. Haivala. Payment funds to be used for Vet/Farrier Expenses

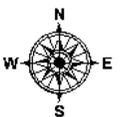
Full Management, Care and Control with Final say given to Mary E. Haivala this day of; January 15<sup>th</sup>. 2012

Print Name: Lowell Friday Signature: Lowell Friday Date: 1-15-2012

Print Name: Mary E. Haivala Signature: Mary E. Haivala Date: 1-15-2012



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## ARTICLE V. FARM ANIMALS\*

### Sec. 10-150. Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adult horse* means a horse which is six or more months of age.

*Animals, domestic farm* means cattle, horses, hogs, sheep, goats, chickens, and other animals commonly kept on farms, or kept for commercial food production purposes.

*Animals, non-domestic* means animals considered to be indigenous naturally wild or exotic and not naturally trained or domesticated.

*Animal shelter* means a structure for which the primary purpose is the housing of domestic farm animals.

*Bovine* means bovids including cows and bison.

*Class I horse operation* means the keeping of one to four adult horses at any time during a calendar year.

*Class II horse operation* means the keeping of five to ten adult horses at any time during a calendar year.

*Class III horse operation* means the keeping of 11 plus adult horses at any time during a calendar year.

*Contiguous* means sharing an edge or boundary; neighboring; adjacent. Parcels which are separated by a right-of-way, easement, or railroad right-of-way, are considered contiguous for the purpose of this article.

*Equine* means (as defined by the Minnesota Department of Agriculture), pertaining to, or resembling a horse, including donkeys and mules.

*Fowl* means birds that are barnyard, domesticated or wild, such as chickens, ducks, geese, and turkey.

*Manure storage area* means an area where animal manure or process wastewaters are stored or processed.

*Nuisance* means a nuisance that unreasonably interferes with a right that is common to the general public.

**\*Editor's note**—Ord. No. 13, Second Series, adopted Oct. 7, 2009, repealed the former Art. V, §§ 10-150—10-154, § 10-154.5, §§ 10-155—10-157, § 10-157.5, § 10-158, and enacted a new Art. V as set out herein. The former Art. pertained to farm animals and derived from Ord. No. 115b, §§ 1—8, § 10, 11-1-2006; Ord. No. 115c, §§ 1—9, § 11, 4-16-2008.

*Owner* means any person or persons, corporation, firm, or association owning, keeping, or harboring an animal regulated by this article.

*Paddock* means an enclosed area used specifically for pasturing or controlling animals.

*Parcel of land* means, for the purposes of this article, a parcel of land is any parcel of land as charged on the county or all adjoining county auditor's tax lists. This includes any fenced contiguous owned, contiguous leased, contiguous rented, or otherwise controlled areas of land that may be used to calculate the maximum number of animals that may be kept on a parcel of land within the city for the issuance of an interim use permit (IUP). A contiguous parcel of land may be used in the calculation if the applicant's period of control is concurrent with the term of the IUP.

*Pasture land* means land with vegetation coverage used for grazing livestock. Pasture growth can consist of grasses, shrubs, deciduous trees or a mixture, not including wetlands.

*Platted subdivision* means an area of land separated into two or more parcels, tracts, or lots by a drawing or map filed of record pursuant to Minn. Stats. ch. 505, as amended or renumbered from time to time.

*Youth development organizations* means a youth organization in which young people in grades kindergarten through one year past high school graduation learn together in various projects, events, and activities under the guidance of professional leadership.  
(Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-151. Interim use permit (IUP) and acreage requirements for domestic farm animals; nondomestic animals prohibited.**

(a) Nondomestic animals are not allowed to be kept within the city.

(b) An IUP is required for the keeping of domestic farm animals as regulated by this article in the city. The procedure for the issuance of an IUP will be in accordance with the City Code.

(c) No animal regulated by this article can be kept on a parcel of land located within a platted subdivision or on any parcel of land of less than three acres. Provided further, that if 80 percent of the lots within a platted subdivision are larger than three acres, an IUP for keeping a regulated animal may be issued for any of those lots larger than three acres.

(d) Upon the transfer of the title of a parcel for which parcel an IUP is in effect on the effective date of this article, the new owner may apply for an IUP for the keeping of such animals if the existing permit is in effect and in good standing at the time the title to the property is transferred.

(e) Meeting the acreage requirements set out in this section does not in and of itself entitle an applicant to an IUP.

(f) IUPs in existence on the effective date of this article for parcels not in compliance with these acreage requirements will be allowed to continue but only as legal, nonconforming uses.

(g) It is a requirement for all IUPs issued under this article that a minimum of one fenced acre of pasture land plus any indicated fraction thereof must be provided for each animal unit described below as the animal equivalent for the animal to be kept pursuant to the IUP.

(h) The following equivalents will apply when determining the animal units defined below:

<i>Animal</i>	<i>Animal Units Per Acre</i>
1 swine	0.4
1 goose or duck	0.2
1 goat or sheep	0.5
1 turkey	0.10
1 bovine	1.4
1 equine	1.0
1 chicken or pheasant/quail	0.01
1 emu or ostrich	1.0
1 alpaca or llama	1.0

(i) Animals may graze within shoreland and bluff impact zones provided permanent vegetation is maintained and a plan has been submitted that is consistent with the technical guides of the Anoka Conservation District.

(j) *Exceptions.*

(1) Youth development organizations may apply for an IUP in accordance with section 10.157. The IUP shall cover individual groups and members of the youth development organization; IUP application fees shall be waived. The IUP shall expire five years from the approval date at which time the organization must reapply for the IUP. In conjunction with the organization's approved IUP, individual members shall comply with the following:

- a. Each member of the organization must complete a youth development project permit application prior to farm animals being kept on the property. The permit will be reviewed by city staff within two weeks of submittal of a completed application.
- b. It is a requirement for all permittees to have a minimum of one acre of pasture land to accommodate the farm animals.
- c. Permittee must comply with all other farm animal regulations set forth in the code.

- d. Approved farm animals must be removed from the property within 30 days of the expiration of the permit.
  - e. In the event a permittee would like to keep the farm animals after the expiration of the project permit, an individual IUP must be applied for and approved. The permittee must meet requirements of the code.
- (2) Domestic farm animals with an animal unit of 0.01 or less per acre are permitted without an IUP with the following conditions:
- a. A maximum of ten animals may be kept on a parcel with a minimum of one acre of pasture land without an IUP so long as all other requirements set forth in the code are met.
  - b. The keeping of 20 plus animals requires an IUP and must meet all requirements set forth in the code, including acreage.
- (Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-152. Domestic farm animal shelter setbacks, paddocks, and pasture land.**

- (a) Domestic animal shelters are considered an accessory structure and must comply with the accessory structure regulations set forth in appendix A of this Code.
- (b) Domestic farm animal shelters and pasture land must meet the requirements of this section.
- (c) *Setbacks.* All newly constructed domestic farm animal shelters, pasture land, and manure stockpiles shall be set back as follows:

<i>Natural/Manmade Features</i>	<i>Horizontal Setbacks</i>
(1) Property line	<ul style="list-style-type: none"> <li>• Fenced pasture land: 5 feet</li> <li>• Shelters: 50 feet</li> <li>• Manure stockpiles: 50 feet</li> <li>• Fenced pasture land: 50 feet</li> </ul>
(2) Existing wells	<ul style="list-style-type: none"> <li>• Shelters: 50 feet</li> <li>• Manure stockpiles: 100 feet</li> </ul>
(3) Ordinary high water level of a stream, river, pond, storm water retention pond, lake	70 feet
(4) Residential structure	75 feet

(Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-153. Manure, rodent, and insect management.**

(a) Manure must be handled or treated in such a manner as to not create a public and/or private nuisance.

(b) Paddocks or similar enclosures must be maintained in a manner that minimizes concentrations of breeding insects and rodents.

(c) Manure must not be left on any public way.

(d) Stockpiling of manure requires a manure management plan that meets requirements set by the Minnesota Pollution Control Agency.

(e) The room or area of an animal shelter where feed is stored must be reasonably secure from rodents, pests, and the animals kept in the shelter, to the extent practicable. (Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-154. Care and maintenance of animals.**

No animal regulated under this article shall be treated cruelly or inhumanely by any person or in violation of any provision of Minn. Stats. ch. 343, as amended and/or renumbered from time to time.

(Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-154.5. Animal health and animal shelter regulations.**

It is the purpose of this section to insure the health and safety of domestic farm animals in the city by establishing regulations governing animal shelters, corrals, paddocks, and the keeping of such animals in the city.

- (1) All newly constructed animal shelters must meet or exceed all requirements of municipal, county, and state building and fire codes.
- (2) The following apply to all regulated domestic farm animals:
  - a. All animals must be maintained to standards of health specific to the breed.
  - b. All animals must have access to potable water.
  - c. Veterinary records for each animal must be disclosed upon request of the city's designated inspector.
  - d. Animal shelters must be kept in a sanitary manner, free of the odor of ammonia, to the extent practicable.
  - e. A consistent and adequate food and water supply must be available to all animals.
  - f. Fencing must be kept in a manner consistent with Minn. Stats. §§ 344.01—344.20, as amended and renumbered from time to time.
  - g. All domestic farm animals must have access to a shelter.

- (3) Class II and class III horse operations in the city must also comply with the following additional requirements:
- a. Class II and class III horse operations in the city will be inspected and evaluated annually as a requirement of the IUP for conformance with all applicable regulations. The costs of such inspection and evaluation must be paid by the holder of the permit as part of the annual permit fee. Nonpayment of such costs will be grounds for termination of the permit. In addition to a class III horse operation, an inspection by a doctor of veterinary medicine licensed to practice in Minnesota must accompany the city's inspector on all inspections. Failure to provide access for inspection will be grounds for termination of the IUP.
  - b. Stall doors must be in good repair and easily opened and closed.
  - c. An evacuation plan for humans and animals must be displayed in all animal shelters.
  - d. Grain and hay dust must be minimized to the extent practicable.
  - e. Aisles must be kept free of debris and impediments to movement by humans and animals.
  - f. There must not be any protruding objects in any animal shelter which could cause injury to humans or animals.
  - g. Drainage must be adequate to prevent accumulations of water to facilitate cleaning of animal shelters and paddock areas.
  - h. Animal bedding must be clean and of a material customarily used for animal bedding purposes.
  - i. Lights and windows must be animal proofed to prevent breakage, to the extent practicable.
  - j. Grain and forage must be free from mold and miscellaneous debris, to the extent practicable.
- (4) The city's designated inspector and any peace officers of the state and all other personnel under the direction and control of the city whom the inspector believes necessary must be allowed access for inspection purposes on any parcel with an approved IUP upon 12-hours' notice. An application for an IUP under this article will be deemed the consent of the owner of the property to such inspections.
- (5) IUPs not in compliance with this article will be cited accordingly but may be granted time, at the city inspector's discretion, to come into compliance with the requirements of this section. In the event an extension of time is granted, a plan to implement the noncompliant requirements by an agreed upon date must be signed by the parties and filed at city hall. The plan must include clearly defined steps for coming into compliance, each of which must be completed by a specific date.

Failure to complete the agreed upon steps by the specified dates will be grounds for termination of the IUP. In no case, however, may an extension exceed 75 days from the date of inspection, and only one extension can be granted.  
(Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-155. Running at large.**

(a) No person, firm, or corporation will permit any animal regulated under this article to run at large within the city. Any such animal will be deemed to be "at large" when it is off the premises owned or rented by its owner and unattended by the owner or any agent or employee of the owner.

(b) The animal control authority, any peace officer of the state, and any other personnel under the direction and control of the city, or any agent of the city, may impound any such animal found at large as regulated by Minn. Stats. § 374.14.  
(Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-156. Riding.**

(a) No person may ride or drive an animal regulated under this article after sunset and before sunrise along or crossing a public way without appropriate lighting or reflectorized clothing.

(b) No person may ride an animal regulated under this article in any public park or on any public beach, except in areas duly designated by the city park committee as a trail way or hitching area.

(c) Every person riding an animal regulated under this article, or driving a vehicle powered by an animal regulated under this article, upon a public way, will be subject to those provisions of city articles and Minnesota Statutes applicable to the driver of a motor vehicle.

(d) No animal regulated under this article may be ridden or driven in any manner which would cause damage to any hard-surfaced road.

(e) No person may ride any animal regulated under this article upon private property without the permission of the owner or occupant thereof.

(f) No person may interfere with any animal regulated under this article that is being ridden or kept in a lawful manner.  
(Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-157. Interim use permit required.**

The keeping of animals regulated under this article will be allowed only after issuance by the city of an IUP for such keeping. The procedure for an IUP will be in accordance

with the city's zoning ordinance, set forth in appendix A to this Code. The required public hearing will be before the planning commission. The final decision on the IUP will be made by the city council not earlier than seven days after the public hearing.

(Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-157.5. Severability and conflict.**

(a) *Severability.* If any section, subsection, sentence, clause, or phrase of this article, or its application to any person or circumstance is held invalid by the decision of any court of competent jurisdiction, the remainder of this article, or the application of the particular provision to other persons or circumstances is in effect and shall remain in full force and effect.

(b) *Conflict.* If any portion of this article is found to be in conflict with any other provision of any zoning, building, fire, safety, or health ordinance of the City Code, the provision which establishes the higher standard shall prevail.

(Ord. No. 13, Second Series, 10-7-2009)

**Sec. 10-158. Penalty.**

Any person, firm or corporation violating the provisions of this article will be guilty of a misdemeanor and may be punished with a maximum fine of \$1,000.00 or 90 days in jail or both.

(Ord. No. 13, Second Series, 10-7-2009)

J.E.Cass  
Retired Judge of Minnesota District Court  
Independent Hearing Examiner  
1323 Hillcrest Drive  
Stillwater, Minnesota 55082  
Website: [jeccmc@msn.com](mailto:jeccmc@msn.com)

Mark J. Vierling

1809 Northwestern Avenue

Stillwater, Mn. 55082

Re: City of East Bethel and Lowell  
and Lowell Friday Application  
File Number: 2012-12

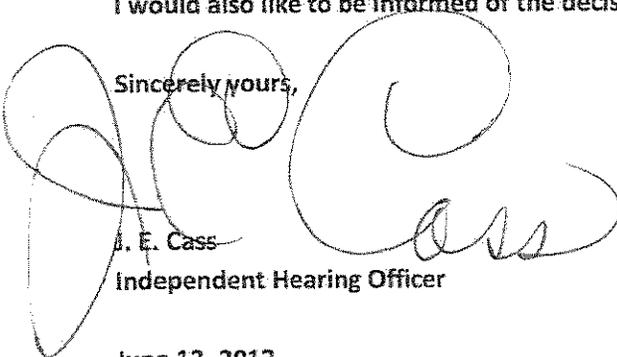
Dear Mr. Vierling

As requested by Ms. Hanson, City Planner for the City of East Bethel, I am delivering my Findings, etc. and Recommendation regarding the Application of Haivala and Friday for a Renewal of an Interim Use Permit to you.

Please inform me if there is any further action the City wishes to have me take regarding this matter.

I would also like to be informed of the decision of the City on this Application.

Sincerely yours,

  
J. E. Cass  
Independent Hearing Officer

June 12, 2012

**In the Matter of the Application of Lowell Friday for an Interim Use Permit in the City of  
East Bethel, Anoka County, Minnesota**

The above-entitled matter came on for Hearing on May 14, 2012 at the City Council Chambers of the City of East Bethel in Anoka County, Minnesota. Judge J.E. Cass (Retired.) served as Independent Hearing Officer for the City of East Bethel.

**Appearances at the Hearing:**

Lowell Friday, represented by his attorneys, Allison F. Eklund and Robert Richmann; Owner/Applicant

Mary E. Haivala, Applicant

Stephanie Hanson, City Planner for the City of East Bethel

Mark J. Vierling, East Bethel City Attorney

Several interested persons

The Hearing Officer also received various statements, petitions and other information submitted by the parties, and interested persons.

The Hearing was audio and visually recorded.

**STATEMENT OF THE ISSUES**

1. Should the Hearing Officer have continued and rescheduled the Hearing as requested by the Friday?
2. Is the request for a new Interim Use Permit or renewal of the existing Interim Use Permit?
3. Should the City issue either a renewal of the Interim Use Permit, or a new Interim Use Permit?

Based on the Application of Lowell Friday and Mary Haivala, the documents submitted by the City of East Bethel and interested parties, and the comments of persons who appeared at the Hearing, and the arguments of Friday's attorneys, the Hearing Officer makes the following:

#### FINDINGS OF FACT AND CONCLUSIONS

1. The City of East Bethel, (hereinafter referred to as "City") is a municipal corporation located in Anoka County, Minnesota, with comprehensive municipal zoning.

2. Lowell Friday (hereinafter referred to as "Friday") is the owner of two (2) parcels of property located in the City consisting of Parcel 33-33-23-44-0003, which is 20.45 acres, and Parcel 34-33-23-33-0027 consisting of 4.55 acres, for a total acreage of 25 acres. Friday is also the owner of a 20.85 acre parcel of property located in the City of Ham Lake, adjacent to his East Bethel property (Parcel 03-32-23-22-0003).

3. Since approximately 1984, Friday has operated a Class III Horse Operation on his property known as NV Painted Sports and Performance specializing in the breeding, sale and boarding of horses. The City has previously issued an Interim Use Permit to allow Friday to operate this business pursuant to Ch. 5 of the East Bethel City Code.

4. Friday's property in Ham Lake is not subject to zoning and/or municipal regulation which would restrict or control his use of the property for his current operations.

5. Friday's property in the City is zoned R-1/Single-Family Residential District requiring an Interim Use Permit for the operation of his horse farm.

6. Friday lives on his property located at 18215 Greenbrook Drive, Wyoming, Minnesota 55092.

7. Mary E. Haivala lives at 18165 Greenbrook Drive NE, Wyoming, Minnesota, which is a residence located on Friday's farm.

8. On January 15, 2012, Haivala and Friday entered into a Management, Care, Custody Control Contract authorizing Haivala to manage Friday's horse farm.

On February 15, 2012, Haivala and Friday signed an 8-year Lease for the premises currently being inhabited by Haivala, a copy of which was received by the City on May 8, 2012. This Lease contains a written notation as follows:

“Original Agreement. Application 8-9-11”.

9. Ms. Haivala is 47 years of age and lives on Friday's property with her two (2) children, ages 13 and 14.

She signed Friday's Land Use Application as the “Applicant”, and Friday signed it as “Property Owner”.

In support of the Application, Haivala provided a letter dated March 26, 2012 describing her background in the care and management of horses. While she has no formal education in equine management, she has many years of “hands on experience” in caring for and managing horses.

10. In his sworn Affidavit, dated November 16, 2011, in support of the issuance of a search warrant, Michael Wahl, Investigator at the Anoka County Sheriff's office, stated as follows:

“Since 2002 the Anoka County Sheriff's office has received no less than ten complaints of animal mistreatment related to the welfare of horses and the facilities they are subject to on the farm of the identified owner, Lowell George Friday, D.O.B. 8/23/1939. The property that has been identified in the complaints to the Anoka County Sheriff's Office has been described as 18215 Greenbrook Dr. NE in the city of East Bethel, County of Anoka, State of Minnesota, and also on a leased property in the city of Ham Lake in the County of Anoka, State of Minnesota. The property in the city of Ham Lake has been described as a leased pasture South of Constance Blvd. NE and East of Xylite St. NE. The Animal Humane Society based in Golden Valley Minnesota

has also received dozens of complaints about the maltreatment of the horses at the locations identified during the same time period.”

In October, 2007, after receiving numerous complaints concerning the conditions of horses on his property, Friday was investigated by the Anoka County Sheriff and Minnesota Humane Society Agents Keith Streff and John Seward.

The Hearing Officer has reviewed the documentation related to this investigation consisting of:

Reports of Andy Knotz, Investigator in the Office of the Anoka County Sheriff

Supplementary Investigative Report of Sgt. M. Longbehn

Anoka County Sheriff – CID Case Cover Sheet

Witness List

The complete contents of a Table of Contents described as Inventory of Disclosure, including a Case Cover Sheet, Table of Contents, Offense Report, Animal Humane Society Supplemental Investigation Report, Anoka County Sheriff's Office Aid to Agency Supplemental Report, Blue Sky Animal Hospital Examination Findings, U of M Veterinary Diagnostic Laboratory Necropsy Report, Follow up Inspection Reports from Dr. Jeff Johnson, DVM, Copies of complaints received by the Animal Humane Society, Copies of complaints received by the Anoka County Sheriff's Office.

As a result of this investigation, Friday was charged with various counts of mistreatment of animals at the Anoka County District Court.

11. On August 6, 2009, Friday pleaded guilty at the Anoka County District Court to one (1) misdemeanor count of a violation of Minn. Stat. §343.21, subd. 2, overworking or mistreating animals – nourishment; shelter, for actions occurring on October 11, 2007, and involving horses owned by Friday at his properties in the cities of East Bethel and Ham Lake. As a result of the conviction, Friday was ordered to have no same or similar violations for 1 year

and to continue to comply with all requirements of a veterinarian and the Animal Humane Society in regard to the maintenance of the animals.

12. On March 18, 2009, the East Bethel City Council approved the reissuance of an Interim Use Permit to Lowell Friday with the following conditions:

1. The Friday must meet the requirements of all applicable ordinances, including requirements for Class III Horse Operations as regulated in City Code, Chapter 5, Farm Animals.
2. Per City Code, Chapter 5, Farm Animals, Mr. Friday shall be limited to one horse per grazable acres on his site and other sites where he has permission to graze animals.
3. Foals over the age of 6 months that remain on the parcel will be counted towards the number of horses allowed in the IUP.
4. Boarded horses on the parcel will be counted towards the number of horses allowed in the IUP.
5. Fencing must be repaired and maintained according to City Code.
6. A licensed veterinarian of the choice of Mr. Friday shall inspect the horses and property on a semi-annual basis, in the spring and the fall. Reports must be submitted based on the findings of the semi-annual veterinarian reports.
7. Mr. Friday must submit follow-up inspection reports from Dr. Johnson to ensure Mr Friday has taken the appropriate steps to increase the body fat of 16 horses identified in Dr. Johnson's report dated February 19, 2009. The report must be submitted to staff no later than June 18, 2009.
8. The City of East Bethel may require Mr. Friday to hire reliable, professional help to assist in the management of the horses on the property.
9. In the event formal complaints of animal negligence are submitted, Mr. Friday shall allow city officials, or their agents, at any reasonable times, on his property to complete inspections of the horses and the facilities.

10. Mr. Friday shall be notified in a reasonable amount of time that inspections will occur on the property, during normal business hours of 8:00 A.M. – 5:00 P.M.
11. Mr. Friday shall allow City officials or their agents on his property to complete random inspections to count the number of horses on the properties under his control.
12. The IUP shall be reviewed by City Council one year after approval. At that time, City Council may consider additional conditions to the IUP or may revoke the IUP should Mr. Friday fail to comply with the conditions of the IUP. Staff will review annually.
13. As part of the IUP, Mr. Friday will be required to obtain the appropriate permits with Ham Lake for grazable acreage on portions of the parcel not zoned rural residential. Mr. Friday will be required to submit the appropriate permits to the City of East Bethel, to be placed in the address file prior to the IUP being issued.
14. If Mr. Friday disagrees with staff calculation of grazable acres, Mr. Friday must submit a survey from a licensed surveyor to verify grazable acres.
15. Mr. Friday must submit a manure plan to the City for review and approval. City staff may periodically inspect the property for compliance.
16. All conditions of the IUP must be met no later than May 18, 2009 except for condition 7. Failure to comply with all the conditions will result in the revocation of the IUP.
17. The IUP has a term limit of three (3) years.

Friday acknowledged receipt and acceptance of the IUP with these conditions on June 24, 2009. In addition, he inserted the words “from date signed L. Friday” on page 2 of the Permit.

There is no evidence that the City agreed to Friday’s amendment to the Permit.

The Interim Use Permit was renewed before Friday was convicted of the mistreating animals charge on August 6, 2009.

13. On April 23, 2011, the Minnesota Animal Humane Society received a formal complaint from Cynthia Kaeder who lives in Apple Valley, Minnesota. Ms. Kaeder complained that Friday's horses were not adequately and consistently cared for. She reported some were thin, others needed Ferrier care, and there were poor sanitary conditions on his premises. In addition, Ms. Kaeder provided a 2-page typewritten report relating to her complaint, which the Hearing Officer has read.

14. On April 28, 2011, Karen Zerwas made a formal complaint to the Minnesota Animal Humane Society regarding Friday's horses. She claimed that the horses were not adequately or consistently cared for, that she was a past volunteer at the Ranch, and was on the ranch the last week of April. She also provided a typewritten report regarding the conditions, which the Hearing Officer has read.

15. On August 11, 2011, Terrie Lacrosse made a formal complaint to the Minnesota Animal Humane Society about conditions on Friday's farm. She stated the horses were not appropriately separated, consistently provided for, and some horses were thin.

16. On August 26, 2011, Gina Benson made a formal complaint to the Minnesota Animal Humane Society relating to the conditions on Friday's farm. She stated the horses were not adequately or consistently cared for, and that some horses exhibited significant signs of emaciation.

17. On August 29, 2011, Melissa Butter made a formal complaint to the Minnesota Animal Humane Society relating to the conditions on Friday's farm. She said she observed emaciated horses and that they were thin and neglected, and these conditions could be seen from the road.

18. Based on previous information, Investigator Streff was aware of Friday's Interim Use Permit and the conditions established by the City on March 18, 2009. Specifically, that Friday and the City agreed to use the Henneke Body Condition (BCS) Scoring System, which is a standardized scoring system for assessing the body condition of horses to evaluate the condition of the horses on his farm and determine a need for intervention to protect the animals. The scale runs from 1 to 10 with 1 being the worst condition.

Investigator Streff contacted Dr. Jeff Johnson from the Blue Sky Animal Hospital, who is referred to in the Interim Use Permit as the current evaluator for Friday's horses. In addition, Dr. Genieove Bergman was employed to act as assisting veterinarian.

19. At approximately 1:00 p.m. on August 29, 2011, Drs. Johnson and Bergman, accompanied by Anoka County Sheriff's Department investigator Michael Wahl and Keith Streff, investigator for the Minnesota Animal Humane Society, performed a herd evaluation on the horses located on Friday's farm. An inventory revealed that there were 65 horses on the property. 10 of the horses had a BCS score of 3 or less. 2 of the horses had a BCS score of 2 or less, and with Friday's agreement, these 2 were immediately transported to the University of Minnesota Veterinary Medical Center for evaluation and care. Friday refused to release any of the other horses.

On August 31, 2011, the Minnesota Animal Humane Society and the Anoka County Sheriff's Department executed a search warrant on Friday's property, and seized the 8 remaining horses which had a BCS score of 3 or less, and transported them to the University of Minnesota Veterinary Medical Center for evaluation and care. The horses removed from Friday's farm were evaluated by veterinarians at the University of Minnesota. Their reports conclude the horses were suffering from conditions symptomatic to emaciation and uncontrolled

parasite infestation. If unchecked, these conditions produce a consistent deterioration of health that eventually becomes acute. In the opinion of Investigator Streff, Friday "is engaged in behavior that demonstrates a pattern of culpable negligence that results in emaciation, suffering, and the eventual death of horses under his direct care and control."

20. In the Animal Humane Society report regarding the conditions on Friday's farm, which resulted in the seizure of 10 horses, the following comments were included:

- a. Many of the outdoor pens and paddocks have an excessive accumulation of feces and/or manure.
- b. The farm and paddock areas continue to be in a state of dilapidation that includes pens with antiquated fencing, sharp objects and other potential health hazards to horses.
- c. Many penned horses did not have access to adequate hay at the time of inspection.
- d. The water supply in many of the pens was algae ridden and/or contaminated.
- e. Numerous horses showed evidence of external parasite loads including lice.
- f. Horses needed Ferrier work and other horses suffered from internal parasites.

21. On November 14, 2011, Gina Benson made a formal complaint to the Animal Humane Society relating to the condition of horses on Friday's property. She wrote that there are now 5-7 horses on the farm that allegedly score low body conditions, and at least one (1) horse has a BCS of one (1).

Also, on November 14, 2011, Investigator Wahl received a telephone complaint from a citizen about the treatment and health of horses on Friday's property. The citizen expressed concern about contaminated water, emaciated horses, and poor fencing conditions that

posed a threat to the safety and security of the horses. The complainant also provided photographs of the horses on the property.

22. On November 16, 2011, the Anoka County Sheriff's Department executed a search warrant on Friday's property for the purpose of investigating the complaint and evaluating the health of the horses. Dr. Nicole Eller-Medina evaluated the horses using the BCS body scoring system. There were 37 horses examined, and 7 scored a BCS score of 3 or less. The 7 horses were seized and sent to the University of Minnesota Veterinary Medical Center for evaluation and care.

23. As a result of the investigation of the Anoka County Sheriff's Department and the Minnesota Animal Humane Society, on January 6, 2012, the prosecuting attorney for the City of East Bethel issued a criminal complaint alleging that on or about November 16, 2011, Lowell Friday committed 35 counts of gross-misdemeanor mistreatment of animals on his property located in the city of East Bethel, Anoka County, Minnesota. Those charges are still pending at the Anoka County District Court.

24. On March 16, 2012, Friday and Haivala applied for a renewal of Friday's Interim Use Permit. In the application they requested a permit to maintain 27 horses on the property, and claimed to have over 53 grazable acres of "linked" property. In support of the application, they eventually submitted a letter dated February 25, 2012 which was signed by Ms. Haivala as "Herd Manager" and Friday as "Owner," to Dr. Jeff Johnson, the veterinarian. In addition, they included a list of horses seen by Dr. Johnson on February 24, 2012; a copy of an advertisement dated January 23, 2012 relating to horses for sale; a copy of an email from Stephanie Hanson, City Planner, City of East Bethel, dated December 17, 2008; a copy of a letter from Ms. Hanson

dated March 24, 2008; a letter signed by Friday on March 18, 2012 and signed by Haivala on March 20, 2012 relating to various aspects of the application; a letter dated March 20, 2012 signed by Haivala containing her qualifications to serve as the farm manager; a Management, Care, Custody Control Contract dated January 15, 2012 and signed by Friday and Haivala on that date; a plat map, including sketches apparently by Friday or Haivala, relating to the "linked" property; a receipt for the IUP Application; a U.S. Department of Agriculture Farm Service Agency Abbreviated 156 Farm Record, which itemizes the type of property owned by Friday; a declaration sheet of an insurance policy of Friday's property, effective February 6, 2012 for one (1) year; an excerpt of the Planning Commission Meetings of the East Bethel Planning Commission on January 22, 2008 containing a discussion of the conditions on Friday's farm, apparently initiated by a news report on Channel 9 TV, relating to Friday's Application for an Interim Use Permit; a copy of a letter from Anoka County Assessor's Office dated March 15, 2012 relating to a Green Acre participant; a copy of an itemization of 27 horses seen by Dr. Johnson on December 6, 2011, and a letter to the City of East Bethel dated December 7, 2007 relating to the Horse Permit Application signed by Lowell and Trudy Friday.

25. As a result of the seizure of horses by the Anoka County Sheriff and Minnesota Animal Humane Society on November 16, 2011, Friday requested a Hearing pursuant to Minn. Stat. §343.235, subd. 3(b) on November 21, 2011. At that time, Friday contested the seizure of only one of the horses which was named Special Effects. The Hearing was held on December 5, 2011, before The Honorable Jenny Walker Jasper, Judge of Anoka County District Court.

In pertinent part, Judge Jasper found as follows:

Dr. Eller Medina examined 28 horses located on Friday's property and determined that 7 of the animals had a BCS score less than 5.

It was her opinion that a horse with a BCS of 3 or less is subject to seizure. Dr. Eller-Medina physically examined all horses and scored four horses as a 1 and three horses as a 2. These horses were seized. One horse, a 2 year old filly named Crystal, was given a BCS of 1, was extremely hard to load into the horse trailer and collapsed multiple times prior to loading. Crystal was found to have a grade 3 heart murmur due to malnutrition and dehydration. Dr. Eller Medina administered a rescue steroid that gave the horse sufficient strength to get back on its feet and load it into the horse trailer. At the time, Dr. Eller Medina and representatives of the Animal Humane Society discussed the possibility that Crystal would have to be euthanized at the scene.

A veterinarian observed the feed located on the property and testified that the available hay was of poor quality and garbage was visible in the bales, and the only available water source that she found was to be half-full, dark and full of debris.

There was testimony by Friday, his witnesses, and various witnesses called on behalf of the Animal Humane Society.

Judge Jasper found that:

“Mr. Friday does not have the ability to provide appropriate care and feeding for Special Effects. Mr. Friday had control over Special Effects’ care during the period of time her health deteriorated and was under his care that she became malnourished, infested with lice and did not receive appropriate care for horses such as hoof care, and parasite testing or medication. Additionally, Mr. Friday refuses to admit that this horse is underweight and malnourished, instead, claiming that her weight is appropriate.”

Judge Jasper concluded that the horse “Special Effects” was not physically fit, and that Friday cannot provide the care required by law for Special Effects.

As a result, the Animal Humane Society was given full control and custody of Special Effects and authorized to determine an appropriate placement for the animal.

26. At the Hearing on May 14, 2012, the City of East Bethel asserted that Friday has 25.5 acres of grazable land, which is one of the criteria for issuance of an Interim Use Permit.

27. At the Hearing, Friday did not speak, but he was represented by his attorneys who spoke on his behalf.

28. Mary Haivala spoke at the Hearing, and asserted that she has the experience and ability to take care of the horses owned by Friday on his property.

29. Karen Zerwas spoke at the Hearing. Ms. Zerwas had been on Friday's property many years earlier when he had 76 horses on the premises, and also during August 2009 when she was helping as a volunteer. It was her opinion that Friday had too many horses on the premises and could not properly care for them.

30. Sharon Reilly spoke at the Hearing. Ms. Reilly had previously worked for Friday and lived in the home on his premises. She left that employment in August 2011. She noted that the horses are not "broke" and lived in piles of manure.

31. Dr. Bartman-Mork and her 12 year old daughter spoke at the Hearing. Dr. Bartman-Mork made complaints to the Minnesota Animal Humane Society about the condition of the horses on Friday's farm in 2007, but was told there was nothing that could be done at that time. She has continued to be concerned about the condition of the horses on the farm, and she, in fact, purchased several of them, and restored them to health.

32. Gina Benson, who represents the Wisconsin Equine Rescue and Youth Ranch, spoke at the Hearing. She discussed the reasons for skinny horses, which, in her opinion, are poor health, poor nutrition, parasites, and various medical conditions. In April 2011, she was contacted by concerned persons for assistance in helping the horses on Friday's property. At that time, she personally observed the condition of the herd and was concerned about the health and safety of the animals.

33. On August 29, 2011, Friday had 71 horses plus one (1) boarded horse. Many of the horses which were seized and adopted by other persons did well.

At that time, the hay on Friday's farm was tested and had no value and was only useful for fiber, which was not nutritious and would only keep horses alive. There was no proper grain.

34. Beth Wilson spoke at the Hearing. She had taken "Easy Dancer," one of Friday's horses, in September 2011, and within 3 months had him up to a 4-rating on the BCS scale. She believed the horse was scared, and after her care, she was able to adopt him out in April 2012. She gilded him, fixed his teeth, and repaired his feet which were in poor condition.

35. Russell Peterson spoke at the Hearing. He owns a farm in Isanti County, Minnesota, which is zoned agricultural, and is concerned about a precedent which may be set if the City denies Friday's application for a renewal of his IUP.

36. As a part of the Hearing Officer's review of the facts in this proceeding, the Officer reviewed the following documents provided to him by the City of East Bethel:

1.	Criminal Complaint	1/6/2012
2.	Reissued Interim Use Permit (IUP) Agreement	3/18/2009
3.	Animal Humane Society Formal Complaint Forms	4/23/11 – 11/11/11
4.	Animal Humane Society – Animal Neglect Investigation	8/29/2011
5.	Animal Humane Society – Inspection Assessment Report	8/30/2011
6.	Animal Humane Society Custodial Releases	8/29 & 8/31
7.	Anoka County Sheriff's Office – Police Report	8/31/2011
8.	Search Warrant Documents	8/31/2011
9.	Anoka County Sheriff's Office – Police Report	11/16/2011
10.	Search Warrant Documents	11/16/2011
11.	Animal Humane Society – Animal Neglect Investigation	11/16/2011
12.	Animal Humane Society – Inspection Assessment Report	11/21/2011
13.	Declaration of Ownership & Request for Hearing	11/22/2011
14.	Findings of Fact Conclusions of Law & Order – Special Effects	1/6/2012
15.	Statement from Christopher Madrigal	12/1/2011
16.	U of M Patient Discharge Instructions – IRS	8/29/2011
17.	U of M Patient Discharge Instructions – Docs Gold	8/29/2011
18.	U of M Patient Discharge Instructions – Painted EZ	8/31/11

19.	U of M Patient Discharge Instructions – King of Spots	8/31/11
20.	U of M Patient Discharge Instructions – E-Z Dancer	8/31/11
21.	U of M Patient Discharge Instructions – Patty	8/31/11
22.	U of M Patient Discharge Instructions – Derby Belle	8/31/11
23.	U of M Patient Discharge Instructions – Little Lady	8/31/11
24.	U of M Patient Discharge Instructions – Black Magic	8/31/11
25.	U of M Patient Discharge Instructions – Libby	8/31/11
26.	U of M Rehabilitation Summary	
27.	U of M Doctor’s Letters	8/30/11 & 9/7/11
28.	U of M Patient Discharge Instructions – Special Effects	11/16/2011
29.	U of M Patient Discharge Instructions – Pia	11/16/2011
30.	U of M Patient Discharge Instructions – Tuxedo	11/16/2011
31.	U of M Patient Discharge Instructions – Sally	11/16/2011
32.	U of M Patient Discharge Instructions – Crystal	11/16/2011
33.	U of M Patient Discharge Instructions – Elderberry	11/16/2011
34.	U of M Patient Discharge Instructions – Little Joe	11/23/2011
35.	U of M Rehabilitation Summary	
36.	U of M Photographs	8/29/2011
37.	U of M Photographs	8/31/2011
38.	Animal Humane Society Photographs	9/13/2011
39.	Animal Humane Society Photographs	11/16/2011
40.	U of M Photographs	11/17/2011
41.	2007 Criminal Investigation	
42.	Lowell Friday Aerial Property Photographs	
43.	Affidavit of Publication	01/11/2008
44.	Lowell Friday Application for renewal of IUP/Land Use Application	03/16/2012
45.	City of East Bethel Notice to Friday of 60-day extension of IUP	04/27/2012
46.	Notice of Public Hearing	05/01/2012
47.	Certificate of Mailing of Notice on Public Hearing for Interim Use Permit	05/04/2012

37. The Hearing Officer reviewed the contents of Article V – Farm Animals of the City of East Bethel, which regulates Class III Horse Operations such as that being conducted by Friday.

38. In support of his Application, Friday submitted six (6) pages of Petitions entitled “Petition For The Renewal Of My IUP” with a total of 30 names. The majority of the signers

lived in East Bethel and Ham Lake, but there were some from various other locations such as Isanti and Andover.

39. An email was submitted in support of Friday's application from Diane Jorgenson, who lives in the vicinity of Friday's farm.

40. Friday also submitted a list of 26 horses that were examined by Dr. Johnson on December 5, 2011. All but 2 of these animals had a BCS of 5, and the other 2 were rated 4.5.

41. Friday submitted another herd report of an inspection by Dr. Johnson on February 24, 2012 on 27 horses. Again, all but 2 of the animals were rated 5, and one of the 2 was 4.5 and the other was rated 4.

42. Friday submitted a letter to Dr. Johnson dated February 25, 2012 signed by Friday and Haivaila explaining to Dr. Johnson the remedies which have been taken to assist the 2 horses which had a score of less than 5 on the Herd Report on February 24, 2012.

43. The sections of the East Bethel City Code which relate to this proceeding are contained in Article V, specifically Section 10-153. Manure, Rodent, and Insect Management, which states that manure must be handled or treated in such a manner as to not create a public and/or private nuisance, paddocks or similar enclosures must be maintained in a manner that minimizes concentrations of breeding insects and rodents, and stockpiling of manure requires a manure management plan that meets requirements set by the Minnesota Pollution Control Agency.

Further, Sec. 10-154. Care and Maintenance of Animals states that no animal regulated under this article shall be treated cruelly or inhumanely by any person or in violation of any provision of Minn. Stats. Ch. 343, as amended and/or renumbered from time to time.

Also, Sec. 10-154.5. Animal Health and Animal Shelter Regulations states all animals must be maintained to standards of health specific to the breed, must have access to potable water, shelters must be kept in a sanitary manner, consistent and adequate food and water supply must be available to all animals, and fencing must be kept in a manner consistent with Minn. Stat. §§ 344.01 – 344.20, as amended and renumbered from time to time.

44. Following a submission of Friday and Haivala's application, the City Staff investigated and made a recommendation to the City Council that Friday's application for the Interim Use Permit be denied for the following reasons:

- a. Friday has demonstrated an inability to properly and consistently care for horses.
- b. Friday's proposal to use another person to provide that service is inadequate and incomplete, lacks details, continuity, and assurances of long-term performance, fails to demonstrate professional and long-term service being secured for necessary provisions for quality and consistent care needed to comply with Ordinance requirements.

45. A Hearing Officer was appointed to conduct a Public Hearing on the Application which was held on May 14, 2012 at the City Council chambers in the City Hall of the City of East Bethel.

#### **DISCUSSION**

1. Should the Hearing Officer have continued and rescheduled the Hearing as requested by Friday?

At the beginning of the Hearing, Friday's lawyers requested the Hearing Officer continue the Hearing based on Friday's pending criminal charges, and also to afford Friday and the City with an opportunity to discuss settlement of the issues in dispute.

On the advice of his attorneys, Friday declined to comment at the Hearing.

This Hearing is in the nature of a civil case, and it was audio and visually recorded.

The pending charges against Friday at the Anoka County District Court are criminal, and pursuant to his rights under the 5<sup>th</sup> Amendment of the United States Constitution, and Article I, Section VII of the Minnesota Constitution, he cannot be compelled to testify against himself. Whatever he might have said at the Hearing, while not under oath, could potentially be used against him in the criminal proceeding. Thus, the pendency of the criminal case does affect Friday's opportunity to speak in support of the request for renewal of the Interim Use Permit. This fact does not, however, prevent the Hearing Officer from proceeding with the Hearing.

Friday and his attorneys knew in advance, and made a decision to have Friday decline to speak at the Hearing. They had ample time to prepare for this contingency. At the Hearing, his attorneys suggested they might request a Court to issue an injunction enjoining the City from continuing with the Hearing. The Hearing Officer invited the attorneys to proceed in that manner, and indicated that if a Court of competent jurisdiction did issue an injunction, it would be followed by the Hearing Officer. Friday's attorneys declined to seek to enjoin the Hearing.

It is not a violation of Friday's right against self-incrimination or right to due process of law to conduct this quasi-civil proceeding, and, therefore, the Hearing Officer was justified in proceeding under these circumstances.

Friday's attorneys also requested the Hearing be continued to provide Friday and the City the opportunity to meet and negotiate a settlement of the issues in dispute. Stephanie Hanson, the City Planner and Mark J. Vierling, the City Attorney, were present at the Hearing, and when asked by the Hearing Officer if the City was interested in negotiating a settlement, they both stated the City did not wish to delay the resolution of the dispute and continue the Hearing, and, therefore, declined the offer to attempt to reach a settlement.

2. Is Friday's request for a new Interim Use Permit, or a renewal of the existing Interim Use Permit?

The Interim Use Permit under which Friday has been operating his horse farm was issued by the City of East Bethel on March 18, 2009 with a condition that it expire in 3 years. There is some information in various documents which have been provided to the Hearing Officer that Mr. Friday had a prior Interim Use Permit, but the date of the issuance of that permit, its conditions, and the date of its expiration are unknown to the Hearing Officer.

As mentioned in No. 12 of the Findings of Fact, Friday acknowledged receipt and acceptance of the conditions contained in the Interim Use Permit on June 24, 2009. In addition, he inserted the words "from date signed L. Friday" on page 2 of the Permit. There is no evidence the City agreed to Friday's amendment to the Permit, and, therefore, the Permit went into effect on March 18, 2009.

On March 16, 2012, Ms. Haivala as Applicant, and Friday as Owner, applied for a renewal of the Interim Use Permit. Mr. Friday and Ms. Haivala were timely in their request for a

renewal of the Interim Use Permit, and, therefore, this proceeding is a request for a renewal and not a request for a new Interim Use Permit.

3. Should the City issue either a renewal of the Interim Use Permit, or a new Interim Use Permit?

As indicated above, the Hearing Officer finds that the Application by Haivala and Friday is a request for a renewal of an Interim Use Permit.

Lowell Friday is a 71 year old operator of a Class III Horse Farm in the City of East Bethel, Anoka County, Minnesota. He has operated the Horse Farm on his premises since at least 1984.

Generally, an Interim Use Permit such as the one effecting Friday's property "runs with the property" and is valid for an indeterminate period as long as the property is used in accordance with the Permit. When the City of East Bethel issued the Interim Use Permit on March 18, 2009 with substantial conditions, the City Administration and City Council were concerned about the conditions on Friday's farm and, if he was able or willing to provide the horses with proper care and management.

Mary Haivala is presently employed by Friday as the Manager of his horse herd. They have entered into a Management Agreement, and Ms. Haivala has signed an 8 year lease for residential premises on Friday's farm. The Hearing Officer listened carefully to Ms. Haivala's comments relating to her position as Herd Manager, and read her letter to the City describing her qualifications.

Haivala is a 47 year old woman with two children, ages 13 and 14, who resides in a residential premise on Friday's property. Her experience with the care and management of

horses is “hands on,” but she lacks any type of education or professional qualifications which would prepare her for management of a horse herd the size of Friday’s.

The Management, Care, Custody Control Contract dated January 15, 2012 signed by Friday and Haivala is vague and does not provide Haivala with the type of management control and financial resources to properly manage the horse herd.

As stated by Deputy Sheriff Michael Wahl, Anoka County Sheriff’s Office, in his sworn Affidavit in support of the issuance of a search warrant on November 16, 2011, since at least 2002 the Sheriff’s Office received many complaints about the mistreatment of animals and the welfare of horses on Friday’s farm. In addition, the Animal Humane Society also received dozens of complaints about the maltreatment of horses on his farm. Eventually, in August 2009, Friday pleaded guilty to a misdemeanor count of mistreating animals, which occurred on October 11, 2007.

In the meantime, the City of East Bethel administrators and City Council issued an Interim Use Permit to Friday on March 18, 2009. The City was obviously concerned about the conditions on Friday’s farm, and attached numerous conditions to the issuance of the Interim Use Permit. The Hearing Officer was not provided with any evidence of compliance by Friday with the numerous Permit conditions.

As a result of numerous citizen complaints to the Minnesota Animal Humane Society and the Anoka County Sheriff’s Office, another investigation into the conditions on Friday’s farm was made in August 2011. On August 29, 2011, investigators with the Minnesota Animal Humane Society and Anoka County Sheriff’s Office conducted an inventory of Friday’s herd. At that time, they found 10 horses had a BCS score of 3 or less, 2 had BCS score of 2 or less, and these 2 were immediately removed from the premises and transported to the University

of Minnesota Veterinary Medical Center for evaluation and care. Friday refused to release the other 8 horses which had a BCS score of 3 or less.

On August 31, 2011 a search warrant was executed on Friday's property, and the 8 horses which had a BCS score of 3 or less were seized. At that time, the investigating officers reported the horses were suffering from conditions symptomatic to emaciation and uncontrolled parasite infestation. In the opinion of Investigator Streff of the Minnesota Animal Humane Society, Friday was "engaged in behavior that demonstrates a pattern of culpable negligence that results in emaciation, suffering and eventual death of horses under his direct care and control." In addition, at that time, it was observed that many of the outdoor pens and paddocks had excessive accumulation of feces and/or manure, the farm and paddock areas were in a state of dilapidation that included pens with antiquated fencing, sharp objects and other potential health hazards to horses, many of the penned horses did not have adequate access to hay, the water supply to many of the pens was algae ridden or contaminated, numerous horses showed evidence of external parasite loads, including lice, and the horses needed Ferrier work and some suffered from internal parasites, the hay lacked nutritional value and was contaminated and there was inadequate grain. Based on the investigation, the results of the search warrant and the observations of the investigating officers, it is clear that in August 2011, Friday was not properly caring for the horses on his premises and in violation of the Interim Use Permit.

On November 16, 2011, the Anoka County Sheriff's Department executed another search warrant on Friday's premises for the purpose of investigating complaints and evaluating the health of the horses on the property. Thirty-seven horses were examined and 7 scored a BCS score of 3 or less, and the 7 horses were seized and sent to the University of Minnesota Veterinary Medical Center for evaluation and care.

After the seizure on November 16, 2011, Friday contested the seizure of one of the horses named Special Effects. In accordance with Minnesota law, a hearing was conducted before Judge Jasper at the Anoka County District Court on December 5, 2011 related to the seizure of Special Effects. At that time, Judge Jasper found that the attending veterinarian examined the 7 horses seized and scored 4 horses as a 1 and 3 horses as a 2 on the BCS scale. One horse named Crystal was so ill, they had difficulty loading the horse into the horse trailer for transport. In addition, the veterinarian observed that the feed and hay located on the premises was of poor quality, with garbage visible in the bales, and the only available water supply was half-full, dark, and full of debris.

In her conclusions, Judge Jasper found that Friday did not have the ability to provide appropriate care and feeding for Special Effects, and that he did have control over her care during the period of time her health deteriorated and that she was under his care when she became malnourished and infested with lice. She did not receive appropriate care for her hoofs, and parasite testing or medication. In addition, in spite of the evidence, Friday refused to admit the horse was underweight and malnourished, and claimed that her weight was appropriate.

Jasper authorized the seizure of "Special Effects" because she was not physically fit, and because Friday could not provide the care required by law. As a result, the Animal Humane Society was given full control and custody of Special Effects and authorized to determine an appropriate placement for her.

As a result of the seizures on November 16, 2011 and the conditions observed on Friday's farm, the City of East Bethel's City Attorneys charged Friday with 35 counts of gross-misdemeanor maltreatment of animals, and that criminal case is still pending at the Anoka County District Court.

In summary, in less than a 3 month period, between September 29, 2011 and November 16, 2011, 17 horses under Friday's care were seized from his farm and transported to the University of Minnesota Veterinary Medical Center for care. It is unclear to the Hearing Officer what finally happened with the seized animals, but there was some discussion at the Hearing that at least 2 of them were euthanized.

In preparation for his application for renewal of the Interim Use Permit, Friday enlisted the services of Haivala to act as Herd Manager for his farm. They signed the Management Agreement, Ms. Haivala signed an 8-year lease for residence on Friday's property, and she signed the Land Use Application as the "Applicant."

The two herd reports submitted by Dr. Johnson relating to the examinations in December 2011 and February 2012 show some improvement in the overall health of the horses on Friday's farm.

The application for renewal of the Interim Use Permit was for 27 horses on Friday's farm. Friday only has 25.5 grazable acres, which in accordance with the East Bethel City Code would permit him to maintain a maximum of 25 horses on the premises.

The conditions on Friday's farm which led to the seizure of 17 horses between September and November 2011 have been a concern of the Anoka County Sheriff's Department, the Minnesota Animal Humane Society, and many citizens for at least 10 years. Despite his prosecution for maltreatment of animals in 2007, Friday failed to alleviate the conditions which resulted in the numerous complaints. The employment of Haivala appears to be nothing more than window dressing designed by Friday to gain reissuance of the Interim Use Permit without a true change in the actual conditions on the farm. Haivala and Friday have failed to provide the Hearing Officer with evidence that the herd is being properly managed, and that the unsafe,

dangerous and unhealthy conditions, which have resulted in long standing abuse of horses, have been alleviated. No evidence was produced regarding the conditions of the sheds, barns, paddock areas, and that the horses were being properly nourished and watered as required by Minnesota law, the City Code and the Interim Use Permit.

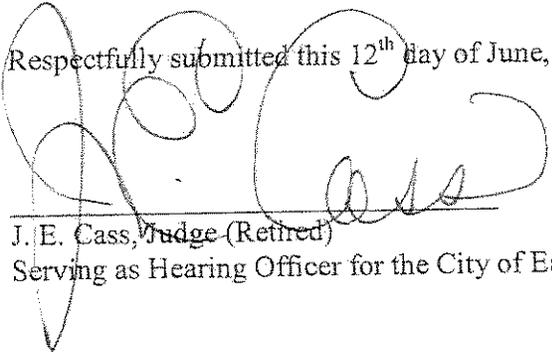
In summary, the Hearing Officer concludes that Friday has done nothing to make significant changes in the conditions on his farm, and if he has done so, he has failed to provide evidence of those changes which would support a decision to recommend to the City that the Interim Use Permit be renewed.

Based on the foregoing findings of fact, conclusions and discussion:

**IT IS HEREBY RECOMMENDED:**

The City of East Bethel should deny the reissuance of the Interim Use Permit to Friday and Haivala.

Respectfully submitted this 12<sup>th</sup> day of June, 2012.

A large, stylized handwritten signature in black ink, appearing to read 'J.E. Cass', is written over a horizontal line.

J.E. Cass, Judge (Retired)  
Serving as Hearing Officer for the City of East Bethel, Anoka County, Minnesota.

**J.E.Cass**  
**Retired Judge of Minnesota District Court**  
**Independent Hearing Examiner**  
**1323 Hillcrest Drive**  
**Stillwater, Minnesota 55082**  
**Website: [jeccmc@msn.com](mailto:jeccmc@msn.com)**

**Mark J. Vierling**

**1809 Northwestern Avenue**

**Stillwater, Mn. 55082**

**Re: City of East Bethel and Lowell  
and Lowell Friday Application  
File Number: 2012-12**

**Dear Mr. Vierling**

**As requested by Ms. Hanson, City Planner for the City of East Bethel, I am delivering my Findings, etc. and Recommendation regarding the Application of Haivala and Friday for a Renewal of an Interim Use Permit to you.**

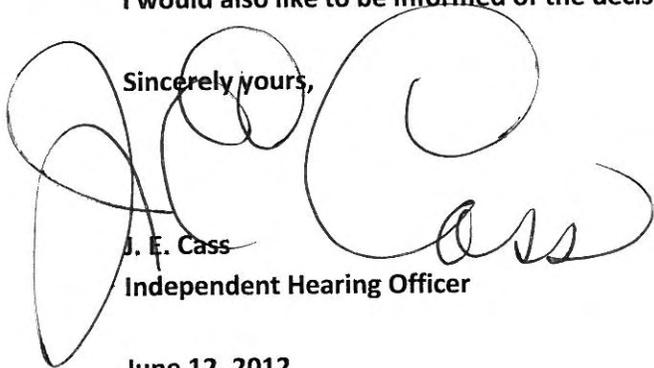
**Please inform me if there is any further action the City wishes to have me take regarding this matter.**

**I would also like to be informed of the decision of the City on this Application.**

**Sincerely yours,**

**J. E. Cass**  
**Independent Hearing Officer**

**June 12, 2012**

A large, stylized handwritten signature in black ink, appearing to read 'J.E. Cass', is written over the typed name and title. The signature is fluid and cursive, with large loops and a long horizontal stroke at the end.

**In the Matter of the Application of Lowell Friday for an Interim Use Permit in the City of  
East Bethel, Anoka County, Minnesota**

The above-entitled matter came on for Hearing on May 14, 2012 at the City Council Chambers of the City of East Bethel in Anoka County, Minnesota. Judge J.E. Cass (Retired.) served as Independent Hearing Officer for the City of East Bethel.

Appearances at the Hearing:

Lowell Friday, represented by his attorneys, Allison F. Eklund and Robert Richmann; Owner/Applicant

Mary E. Haivala, Applicant

Stephanie Hanson, City Planner for the City of East Bethel

Mark J. Vierling, East Bethel City Attorney

Several interested persons

The Hearing Officer also received various statements, petitions and other information submitted by the parties, and interested persons.

The Hearing was audio and visually recorded.

**STATEMENT OF THE ISSUES**

1. Should the Hearing Officer have continued and rescheduled the Hearing as requested by the Friday?
2. Is the request for a new Interim Use Permit or renewal of the existing Interim Use Permit?
3. Should the City issue either a renewal of the Interim Use Permit, or a new Interim Use Permit?

Based on the Application of Lowell Friday and Mary Haivala, the documents submitted by the City of East Bethel and interested parties, and the comments of persons who appeared at the Hearing, and the arguments of Friday's attorneys, the Hearing Officer makes the following:

### **FINDINGS OF FACT AND CONCLUSIONS**

1. The City of East Bethel, (hereinafter referred to as "City") is a municipal corporation located in Anoka County, Minnesota, with comprehensive municipal zoning.

2. Lowell Friday (hereinafter referred to as "Friday") is the owner of two (2) parcels of property located in the City consisting of Parcel 33-33-23-44-0003, which is 20.45 acres, and Parcel 34-33-23-33-0027 consisting of 4.55 acres, for a total acreage of 25 acres. Friday is also the owner of a 20.85 acre parcel of property located in the City of Ham Lake, adjacent to his East Bethel property (Parcel 03-32-23-22-0003).

3. Since approximately 1984, Friday has operated a Class III Horse Operation on his property known as NV Painted Sports and Performance specializing in the breeding, sale and boarding of horses. The City has previously issued an Interim Use Permit to allow Friday to operate this business pursuant to Ch. 5 of the East Bethel City Code.

4. Friday's property in Ham Lake is not subject to zoning and/or municipal regulation which would restrict or control his use of the property for his current operations.

5. Friday's property in the City is zoned R-1/Single-Family Residential District requiring an Interim Use Permit for the operation of his horse farm.

6. Friday lives on his property located at 18215 Greenbrook Drive, Wyoming, Minnesota 55092.

7. Mary E. Haivala lives at 18165 Greenbrook Drive NE, Wyoming, Minnesota, which is a residence located on Friday's farm.

8. On January 15, 2012, Haivala and Friday entered into a Management, Care, Custody Control Contract authorizing Haivala to manage Friday's horse farm.

On February 15, 2012, Haivala and Friday signed an 8-year Lease for the premises currently being inhabited by Haivala, a copy of which was received by the City on May 8, 2012. This Lease contains a written notation as follows:

“Original Agreement. Application 8-9-11”.

9. Ms. Haivala is 47 years of age and lives on Friday's property with her two (2) children, ages 13 and 14.

She signed Friday's Land Use Application as the “Applicant”, and Friday signed it as “Property Owner”.

In support of the Application, Haivala provided a letter dated March 26, 2012 describing her background in the care and management of horses. While she has no formal education in equine management, she has many years of “hands on experience” in caring for and managing horses.

10. In his sworn Affidavit, dated November 16, 2011, in support of the issuance of a search warrant, Michael Wahl, Investigator at the Anoka County Sheriff's office, stated as follows:

“Since 2002 the Anoka County Sheriff's office has received no less than ten complaints of animal mistreatment related to the welfare of horses and the facilities they are subject to on the farm of the identified owner, Lowell George Friday, D.O.B. 8/23/1939. The property that has been identified in the complaints to the Anoka County Sheriff's Office has been described as 18215 Greenbrook Dr. NE in the city of East Bethel, County of Anoka, State of Minnesota, and also on a leased property in the city of Ham Lake in the County of Anoka, State of Minnesota. The property in the city of Ham Lake has been described as a leased pasture South of Constance Blvd. NE and East of Xylite St. NE. The Animal Humane Society based in Golden Valley Minnesota

has also received dozens of complaints about the maltreatment of the horses at the locations identified during the same time period.”

In October, 2007, after receiving numerous complaints concerning the conditions of horses on his property, Friday was investigated by the Anoka County Sheriff and Minnesota Humane Society Agents Keith Streff and John Seward.

The Hearing Officer has reviewed the documentation related to this investigation consisting of:

Reports of Andy Knotz, Investigator in the Office of the Anoka County Sheriff

Supplementary Investigative Report of Sgt. M. Longbehn

Anoka County Sheriff – CID Case Cover Sheet

Witness List

The complete contents of a Table of Contents described as Inventory of Disclosure, including a Case Cover Sheet, Table of Contents, Offense Report, Animal Humane Society Supplemental Investigation Report, Anoka County Sheriff’s Office Aid to Agency Supplemental Report, Blue Sky Animal Hospital Examination Findings, U of M Veterinary Diagnostic Laboratory Necropsy Report, Follow up Inspection Reports from Dr. Jeff Johnson, DVM, Copies of complaints received by the Animal Humane Society, Copies of complaints received by the Anoka County Sheriff’s Office.

As a result of this investigation, Friday was charged with various counts of mistreatment of animals at the Anoka County District Court.

11. On August 6, 2009, Friday pleaded guilty at the Anoka County District Court to one (1) misdemeanor count of a violation of Minn. Stat. §343.21, subd. 2, overworking or mistreating animals – nourishment; shelter, for actions occurring on October 11, 2007, and involving horses owned by Friday at his properties in the cities of East Bethel and Ham Lake. As a result of the conviction, Friday was ordered to have no same or similar violations for 1 year

and to continue to comply with all requirements of a veterinarian and the Animal Humane Society in regard to the maintenance of the animals.

12. On March 18, 2009, the East Bethel City Council approved the reissuance of an Interim Use Permit to Lowell Friday with the following conditions:

1. The Friday must meet the requirements of all applicable ordinances, including requirements for Class III Horse Operations as regulated in City Code, Chapter 5, Farm Animals.
2. Per City Code, Chapter 5, Farm Animals, Mr. Friday shall be limited to one horse per grazable acres on his site and other sites where he has permission to graze animals.
3. Foals over the age of 6 months that remain on the parcel will be counted towards the number of horses allowed in the IUP.
4. Boarded horses on the parcel will be counted towards the number of horses allowed in the IUP.
5. Fencing must be repaired and maintained according to City Code.
6. A licensed veterinarian of the choice of Mr. Friday shall inspect the horses and property on a semi-annual basis, in the spring and the fall. Reports must be submitted based on the findings of the semi-annual veterinarian reports.
7. Mr. Friday must submit follow-up inspection reports from Dr. Johnson to ensure Mr Friday has taken the appropriate steps to increase the body fat of 16 horses identified in Dr. Johnson's report dated February 19, 2009. The report must be submitted to staff no later than June 18, 2009.
8. The City of East Bethel may require Mr. Friday to hire reliable, professional help to assist in the management of the horses on the property.
9. In the event formal complaints of animal negligence are submitted, Mr. Friday shall allow city officials, or their agents, at any reasonable times, on his property to complete inspections of the horses and the facilities.

10. Mr. Friday shall be notified in a reasonable amount of time that inspections will occur on the property, during normal business hours of 8:00 A.M. – 5:00 P.M.
11. Mr. Friday shall allow City officials or their agents on his property to complete random inspections to count the number of horses on the properties under his control.
12. The IUP shall be reviewed by City Council one year after approval. At that time, City Council may consider additional conditions to the IUP or may revoke the IUP should Mr. Friday fail to comply with the conditions of the IUP. Staff will review annually.
13. As part of the IUP, Mr. Friday will be required to obtain the appropriate permits with Ham Lake for grazable acreage on portions of the parcel not zoned rural residential. Mr. Friday will be required to submit the appropriate permits to the City of East Bethel, to be placed in the address file prior to the IUP being issued.
14. If Mr. Friday disagrees with staff calculation of grazable acres, Mr. Friday must submit a survey from a licensed surveyor to verify grazable acres.
15. Mr. Friday must submit a manure plan to the City for review and approval. City staff may periodically inspect the property for compliance.
16. All conditions of the IUP must be met no later than May 18, 2009 except for condition 7. Failure to comply with all the conditions will result in the revocation of the IUP.
17. The IUP has a term limit of three (3) years.

Friday acknowledged receipt and acceptance of the IUP with these conditions on June 24, 2009. In addition, he inserted the words “from date signed L. Friday” on page 2 of the Permit.

There is no evidence that the City agreed to Friday’s amendment to the Permit.

The Interim Use Permit was renewed before Friday was convicted of the mistreating animals charge on August 6, 2009.

13. On April 23, 2011, the Minnesota Animal Humane Society received a formal complaint from Cynthia Kaeder who lives in Apple Valley, Minnesota. Ms. Kaeder complained that Friday's horses were not adequately and consistently cared for. She reported some were thin, others needed Ferrier care, and there were poor sanitary conditions on his premises. In addition, Ms. Kaeder provided a 2-page typewritten report relating to her complaint, which the Hearing Officer has read.

14. On April 28, 2011, Karen Zerwas made a formal complaint to the Minnesota Animal Humane Society regarding Friday's horses. She claimed that the horses were not adequately or consistently cared for, that she was a past volunteer at the Ranch, and was on the ranch the last week of April. She also provided a typewritten report regarding the conditions, which the Hearing Officer has read.

15. On August 11, 2011, Terrie Lacrosse made a formal complaint to the Minnesota Animal Humane Society about conditions on Friday's farm. She stated the horses were not appropriately separated, consistently provided for, and some horses were thin.

16. On August 26, 2011, Gina Benson made a formal complaint to the Minnesota Animal Humane Society relating to the conditions on Friday's farm. She stated the horses were not adequately or consistently cared for, and that some horses exhibited significant signs of emaciation.

17. On August 29, 2011, Melissa Butter made a formal complaint to the Minnesota Animal Humane Society relating to the conditions on Friday's farm. She said she observed emaciated horses and that they were thin and neglected, and these conditions could be seen from the road.

18. Based on previous information, Investigator Streff was aware of Friday's Interim Use Permit and the conditions established by the City on March 18, 2009. Specifically, that Friday and the City agreed to use the Henneke Body Condition (BCS) Scoring System, which is a standardized scoring system for assessing the body condition of horses to evaluate the condition of the horses on his farm and determine a need for intervention to protect the animals. The scale runs from 1 to 10 with 1 being the worst condition.

Investigator Streff contacted Dr. Jeff Johnson from the Blue Sky Animal Hospital, who is referred to in the Interim Use Permit as the current evaluator for Friday's horses. In addition, Dr. Genieove Bergman was employed to act as assisting veterinarian.

19. At approximately 1:00 p.m. on August 29, 2011, Drs. Johnson and Bergman, accompanied by Anoka County Sheriff's Department investigator Michael Wahl and Keith Streff, investigator for the Minnesota Animal Humane Society, performed a herd evaluation on the horses located on Friday's farm. An inventory revealed that there were 65 horses on the property. 10 of the horses had a BCS score of 3 or less. 2 of the horses had a BCS score of 2 or less, and with Friday's agreement, these 2 were immediately transported to the University of Minnesota Veterinary Medical Center for evaluation and care. Friday refused to release any of the other horses.

On August 31, 2011, the Minnesota Animal Humane Society and the Anoka County Sheriff's Department executed a search warrant on Friday's property, and seized the 8 remaining horses which had a BCS score of 3 or less, and transported them to the University of Minnesota Veterinary Medical Center for evaluation and care. The horses removed from Friday's farm were evaluated by veterinarians at the University of Minnesota. Their reports conclude the horses were suffering from conditions symptomatic to emaciation and uncontrolled

parasite infestation. If unchecked, these conditions produce a consistent deterioration of health that eventually becomes acute. In the opinion of Investigator Streff, Friday “is engaged in behavior that demonstrates a pattern of culpable negligence that results in emaciation, suffering, and the eventual death of horses under his direct care and control.”

20. In the Animal Humane Society report regarding the conditions on Friday’s farm, which resulted in the seizure of 10 horses, the following comments were included:

- a. Many of the outdoor pens and paddocks have an excessive accumulation of feces and/or manure.
- b. The farm and paddock areas continue to be in a state of dilapidation that includes pens with antiquated fencing, sharp objects and other potential health hazards to horses.
- c. Many penned horses did not have access to adequate hay at the time of inspection.
- d. The water supply in many of the pens was algae ridden and/or contaminated.
- e. Numerous horses showed evidence of external parasite loads including lice.
- f. Horses needed Ferrier work and other horses suffered from internal parasites.

21. On November 14, 2011, Gina Benson made a formal complaint to the Animal Humane Society relating to the condition of horses on Friday’s property. She wrote that there are now 5-7 horses on the farm that allegedly score low body conditions, and at least one (1) horse has a BCS of one (1).

Also, on November 14, 2011, Investigator Wahl received a telephone complaint from a citizen about the treatment and health of horses on Friday’s property. The citizen expressed concern about contaminated water, emaciated horses, and poor fencing conditions that

posed a threat to the safety and security of the horses. The complainant also provided photographs of the horses on the property.

22. On November 16, 2011, the Anoka County Sheriff's Department executed a search warrant on Friday's property for the purpose of investigating the complaint and evaluating the health of the horses. Dr. Nicole Eller-Medina evaluated the horses using the BCS body scoring system. There were 37 horses examined, and 7 scored a BCS score of 3 or less. The 7 horses were seized and sent to the University of Minnesota Veterinary Medical Center for evaluation and care.

23. As a result of the investigation of the Anoka County Sheriff's Department and the Minnesota Animal Humane Society, on January 6, 2012, the prosecuting attorney for the City of East Bethel issued a criminal complaint alleging that on or about November 16, 2011, Lowell Friday committed 35 counts of gross-misdemeanor mistreatment of animals on his property located in the city of East Bethel, Anoka County, Minnesota. Those charges are still pending at the Anoka County District Court.

24. On March 16, 2012, Friday and Haivala applied for a renewal of Friday's Interim Use Permit. In the application they requested a permit to maintain 27 horses on the property, and claimed to have over 53 grazable acres of "linked" property. In support of the application, they eventually submitted a letter dated February 25, 2012 which was signed by Ms. Haivala as "Herd Manager" and Friday as "Owner," to Dr. Jeff Johnson, the veterinarian. In addition, they included a list of horses seen by Dr. Johnson on February 24, 2012; a copy of an advertisement dated January 23, 2012 relating to horses for sale; a copy of an email from Stephanie Hanson, City Planner, City of East Bethel, dated December 17, 2008; a copy of a letter from Ms. Hanson

dated March 24, 2008; a letter signed by Friday on March 18, 2012 and signed by Haivala on March 20, 2012 relating to various aspects of the application; a letter dated March 20, 2012 signed by Haivala containing her qualifications to serve as the farm manager; a Management, Care, Custody Control Contract dated January 15, 2012 and signed by Friday and Haivala on that date; a plat map, including sketches apparently by Friday or Haivala, relating to the “linked” property; a receipt for the IUP Application; a U.S. Department of Agriculture Farm Service Agency Abbreviated 156 Farm Record, which itemizes the type of property owned by Friday; a declaration sheet of an insurance policy of Friday’s property, effective February 6, 2012 for one (1) year; an excerpt of the Planning Commission Meetings of the East Bethel Planning Commission on January 22, 2008 containing a discussion of the conditions on Friday’s farm, apparently initiated by a news report on Channel 9 TV, relating to Friday’s Application for an Interim Use Permit; a copy of a letter from Anoka County Assessor’s Office dated March 15, 2012 relating to a Green Acre participant; a copy of an itemization of 27 horses seen by Dr. Johnson on December 6, 2011, and a letter to the City of East Bethel dated December 7, 2007 relating to the Horse Permit Application signed by Lowell and Trudy Friday.

25. As a result of the seizure of horses by the Anoka County Sheriff and Minnesota Animal Humane Society on November 16, 2011, Friday requested a Hearing pursuant to Minn. Stat. §343.235, subd. 3(b) on November 21, 2011. At that time, Friday contested the seizure of only one of the horses which was named Special Effects. The Hearing was held on December 5, 2011, before The Honorable Jenny Walker Jasper, Judge of Anoka County District Court.

In pertinent part, Judge Jasper found as follows:

Dr. Eller Medina examined 28 horses located on Friday’s property and determined that 7 of the animals had a BCS score less than 5.

It was her opinion that a horse with a BCS of 3 or less is subject to seizure. Dr. Eller-Medina physically examined all horses and scored four horses as a 1 and three horses as a 2. These horses were seized. One horse, a 2 year old filly named Crystal, was given a BCS of 1, was extremely hard to load into the horse trailer and collapsed multiple times prior to loading. Crystal was found to have a grade 3 heart murmur due to malnutrition and dehydration. Dr. Eller Medina administered a rescue steroid that gave the horse sufficient strength to get back on its feet and load it into the horse trailer. At the time, Dr. Eller Medina and representatives of the Animal Humane Society discussed the possibility that Crystal would have to be euthanized at the scene.

A veterinarian observed the feed located on the property and testified that the available hay was of poor quality and garbage was visible in the bales, and the only available water source that she found was to be half-full, dark and full of debris.

There was testimony by Friday, his witnesses, and various witnesses called on behalf of the Animal Humane Society.

Judge Jasper found that:

“Mr. Friday does not have the ability to provide appropriate care and feeding for Special Effects. Mr. Friday had control over Special Effects’ care during the period of time her health deteriorated and was under his care that she became malnourished, infested with lice and did not receive appropriate care for horses such as hoof care, and parasite testing or medication. Additionally, Mr. Friday refuses to admit that this horse is underweight and malnourished, instead, claiming that her weight is appropriate.”

Judge Jasper concluded that the horse “Special Effects” was not physically fit, and that Friday cannot provide the care required by law for Special Effects.

As a result, the Animal Humane Society was given full control and custody of Special Effects and authorized to determine an appropriate placement for the animal.

26. At the Hearing on May 14, 2012, the City of East Bethel asserted that Friday has 25.5 acres of grazable land, which is one of the criteria for issuance of an Interim Use Permit.

27. At the Hearing, Friday did not speak, but he was represented by his attorneys who spoke on his behalf.

28. Mary Haivala spoke at the Hearing, and asserted that she has the experience and ability to take care of the horses owned by Friday on his property.

29. Karen Zerwas spoke at the Hearing. Ms. Zerwas had been on Friday's property many years earlier when he had 76 horses on the premises, and also during August 2009 when she was helping as a volunteer. It was her opinion that Friday had too many horses on the premises and could not properly care for them.

30. Sharon Reilly spoke at the Hearing. Ms. Reilly had previously worked for Friday and lived in the home on his premises. She left that employment in August 2011. She noted that the horses are not "broke" and lived in piles of manure.

31. Dr. Bartman-Mork and her 12 year old daughter spoke at the Hearing. Dr. Bartman-Mork made complaints to the Minnesota Animal Humane Society about the condition of the horses on Friday's farm in 2007, but was told there was nothing that could be done at that time. She has continued to be concerned about the condition of the horses on the farm, and she, in fact, purchased several of them, and restored them to health.

32. Gina Benson, who represents the Wisconsin Equine Rescue and Youth Ranch, spoke at the Hearing. She discussed the reasons for skinny horses, which, in her opinion, are poor health, poor nutrition, parasites, and various medical conditions. In April 2011, she was contacted by concerned persons for assistance in helping the horses on Friday's property. At that time, she personally observed the condition of the herd and was concerned about the health and safety of the animals.

33. On August 29, 2011, Friday had 71 horses plus one (1) boarded horse. Many of the horses which were seized and adopted by other persons did well.

At that time, the hay on Friday's farm was tested and had no value and was only useful for fiber, which was not nutritious and would only keep horses alive. There was no proper grain.

34. Beth Wilson spoke at the Hearing. She had taken "Easy Dancer," one of Friday's horses, in September 2011, and within 3 months had him up to a 4-rating on the BCS scale. She believed the horse was scared, and after her care, she was able to adopt him out in April 2012. She gilded him, fixed his teeth, and repaired his feet which were in poor condition.

35. Russell Peterson spoke at the Hearing. He owns a farm in Isanti County, Minnesota, which is zoned agricultural, and is concerned about a precedent which may be set if the City denies Friday's application for a renewal of his IUP.

36. As a part of the Hearing Officer's review of the facts in this proceeding, the Officer reviewed the following documents provided to him by the City of East Bethel:

1.	Criminal Complaint	1/6/2012
2.	Reissued Interim Use Permit (IUP) Agreement	3/18/2009
3.	Animal Humane Society Formal Complaint Forms	4/23/11 – 11/11/11
4.	Animal Humane Society – Animal Neglect Investigation	8/29/2011
5.	Animal Humane Society – Inspection Assessment Report	8/30/2011
6.	Animal Humane Society Custodial Releases	8/29 & 8/31
7.	Anoka County Sheriff's Office – Police Report	8/31/2011
8.	Search Warrant Documents	8/31/2011
9.	Anoka County Sheriff's Office – Police Report	11/16/2011
10.	Search Warrant Documents	11/16/2011
11.	Animal Humane Society – Animal Neglect Investigation	11/16/2011
12.	Animal Humane Society – Inspection Assessment Report	11/21/2011
13.	Declaration of Ownership & Request for Hearing	11/22/2011
14.	Findings of Fact Conclusions of Law & Order – Special Effects	1/6/2012
15.	Statement from Christopher Madrigal	12/1/2011
16.	U of M Patient Discharge Instructions – IRS	8/29/2011
17.	U of M Patient Discharge Instructions – Docs Gold	8/29/2011
18.	U of M Patient Discharge Instructions – Painted EZ	8/31/11

19.	U of M Patient Discharge Instructions – King of Spots	8/31/11
20.	U of M Patient Discharge Instructions – E-Z Dancer	8/31/11
21.	U of M Patient Discharge Instructions – Patty	8/31/11
22.	U of M Patient Discharge Instructions – Derby Belle	8/31/11
23.	U of M Patient Discharge Instructions – Little Lady	8/31/11
24.	U of M Patient Discharge Instructions – Black Magic	8/31/11
25.	U of M Patient Discharge Instructions – Libby	8/31/11
26.	U of M Rehabilitation Summary	
27.	U of M Doctor’s Letters	8/30/11 & 9/7/11
28.	U of M Patient Discharge Instructions – Special Effects	11/16/2011
29.	U of M Patient Discharge Instructions – Pia	11/16/2011
30.	U of M Patient Discharge Instructions – Tuxedo	11/16/2011
31.	U of M Patient Discharge Instructions – Sally	11/16/2011
32.	U of M Patient Discharge Instructions – Crystal	11/16/2011
33.	U of M Patient Discharge Instructions – Elderberry	11/16/2011
34.	U of M Patient Discharge Instructions – Little Joe	11/23/2011
35.	U of M Rehabilitation Summary	
36.	U of M Photographs	8/29/2011
37.	U of M Photographs	8/31/2011
38.	Animal Humane Society Photographs	9/13/2011
39.	Animal Humane Society Photographs	11/16/2011
40.	U of M Photographs	11/17/2011
41.	2007 Criminal Investigation	
42.	Lowell Friday Aerial Property Photographs	
43.	Affidavit of Publication	01/11/2008
44.	Lowell Friday Application for renewal of IUP/Land Use Application	03/16/2012
45.	City of East Bethel Notice to Friday of 60-day extension of IUP	04/27/2012
46.	Notice of Public Hearing	05/01/2012
47.	Certificate of Mailing of Notice on Public Hearing for Interim Use Permit	05/04/2012

37. The Hearing Officer reviewed the contents of Article V – Farm Animals of the City of East Bethel, which regulates Class III Horse Operations such as that being conducted by Friday.

38. In support of his Application, Friday submitted six (6) pages of Petitions entitled “Petition For The Renewal Of My IUP” with a total of 30 names. The majority of the signers

lived in East Bethel and Ham Lake, but there were some from various other locations such as Isanti and Andover.

39. An email was submitted in support of Friday's application from Diane Jorgenson, who lives in the vicinity of Friday's farm.

40. Friday also submitted a list of 26 horses that were examined by Dr. Johnson on December 5, 2011. All but 2 of these animals had a BCS of 5, and the other 2 were rated 4.5.

41. Friday submitted another herd report of an inspection by Dr. Johnson on February 24, 2012 on 27 horses. Again, all but 2 of the animals were rated 5, and one of the 2 was 4.5 and the other was rated 4.

42. Friday submitted a letter to Dr. Johnson dated February 25, 2012 signed by Friday and Haivaila explaining to Dr. Johnson the remedies which have been taken to assist the 2 horses which had a score of less than 5 on the Herd Report on February 24, 2012.

43. The sections of the East Bethel City Code which relate to this proceeding are contained in Article V, specifically Section 10-153. Manure, Rodent, and Insect Management, which states that manure must be handled or treated in such a manner as to not create a public and/or private nuisance, paddocks or similar enclosures must be maintained in a manner that minimizes concentrations of breeding insects and rodents, and stockpiling of manure requires a manure management plan that meets requirements set by the Minnesota Pollution Control Agency.

Further, Sec. 10-154. Care and Maintenance of Animals states that no animal regulated under this article shall be treated cruelly or inhumanely by any person or in violation of any provision of Minn. Stats. Ch. 343, as amended and/or renumbered from time to time.

Also, Sec. 10-154.5. Animal Health and Animal Shelter Regulations states all animals must be maintained to standards of health specific to the breed, must have access to potable water, shelters must be kept in a sanitary manner, consistent and adequate food and water supply must be available to all animals, and fencing must be kept in a manner consistent with Minn. Stat. §§ 344.01 – 344.20, as amended and renumbered from time to time.

44. Following a submission of Friday and Haivala's application, the City Staff investigated and made a recommendation to the City Council that Friday's application for the Interim Use Permit be denied for the following reasons:

- a. Friday has demonstrated an inability to properly and consistently care for horses.
- b. Friday's proposal to use another person to provide that service is inadequate and incomplete, lacks details, continuity, and assurances of long-term performance, fails to demonstrate professional and long-term service being secured for necessary provisions for quality and consistent care needed to comply with Ordinance requirements.

45. A Hearing Officer was appointed to conduct a Public Hearing on the Application which was held on May 14, 2012 at the City Council chambers in the City Hall of the City of East Bethel.

#### **DISCUSSION**

1. Should the Hearing Officer have continued and rescheduled the Hearing as requested by Friday?

At the beginning of the Hearing, Friday's lawyers requested the Hearing Officer continue the Hearing based on Friday's pending criminal charges, and also to afford Friday and the City with an opportunity to discuss settlement of the issues in dispute.

On the advice of his attorneys, Friday declined to comment at the Hearing.

This Hearing is in the nature of a civil case, and it was audio and visually recorded.

The pending charges against Friday at the Anoka County District Court are criminal, and pursuant to his rights under the 5<sup>th</sup> Amendment of the United States Constitution, and Article I, Section VII of the Minnesota Constitution, he cannot be compelled to testify against himself. Whatever he might have said at the Hearing, while not under oath, could potentially be used against him in the criminal proceeding. Thus, the pendency of the criminal case does affect Friday's opportunity to speak in support of the request for renewal of the Interim Use Permit. This fact does not, however, prevent the Hearing Officer from proceeding with the Hearing.

Friday and his attorneys knew in advance, and made a decision to have Friday decline to speak at the Hearing. They had ample time to prepare for this contingency. At the Hearing, his attorneys suggested they might request a Court to issue an injunction enjoining the City from continuing with the Hearing. The Hearing Officer invited the attorneys to proceed in that manner, and indicated that if a Court of competent jurisdiction did issue an injunction, it would be followed by the Hearing Officer. Friday's attorneys declined to seek to enjoin the Hearing.

It is not a violation of Friday's right against self-incrimination or right to due process of law to conduct this quasi-civil proceeding, and, therefore, the Hearing Officer was justified in proceeding under these circumstances.

Friday's attorneys also requested the Hearing be continued to provide Friday and the City the opportunity to meet and negotiate a settlement of the issues in dispute. Stephanie Hanson, the City Planner and Mark J. Vierling, the City Attorney, were present at the Hearing, and when asked by the Hearing Officer if the City was interested in negotiating a settlement, they both stated the City did not wish to delay the resolution of the dispute and continue the Hearing, and, therefore, declined the offer to attempt to reach a settlement.

2. Is Friday's request for a new Interim Use Permit, or a renewal of the existing Interim Use Permit?

The Interim Use Permit under which Friday has been operating his horse farm was issued by the City of East Bethel on March 18, 2009 with a condition that it expire in 3 years. There is some information in various documents which have been provided to the Hearing Officer that Mr. Friday had a prior Interim Use Permit, but the date of the issuance of that permit, its conditions, and the date of its expiration are unknown to the Hearing Officer.

As mentioned in No. 12 of the Findings of Fact, Friday acknowledged receipt and acceptance of the conditions contained in the Interim Use Permit on June 24, 2009. In addition, he inserted the words "from date signed L. Friday" on page 2 of the Permit. There is no evidence the City agreed to Friday's amendment to the Permit, and, therefore, the Permit went into effect on March 18, 2009.

On March 16, 2012, Ms. Haivala as Applicant, and Friday as Owner, applied for a renewal of the Interim Use Permit. Mr. Friday and Ms. Haivala were timely in their request for a

renewal of the Interim Use Permit, and, therefore, this proceeding is a request for a renewal and not a request for a new Interim Use Permit.

3. Should the City issue either a renewal of the Interim Use Permit, or a new Interim Use Permit?

As indicated above, the Hearing Officer finds that the Application by Haivala and Friday is a request for a renewal of an Interim Use Permit.

Lowell Friday is a 71 year old operator of a Class III Horse Farm in the City of East Bethel, Anoka County, Minnesota. He has operated the Horse Farm on his premises since at least 1984.

Generally, an Interim Use Permit such as the one effecting Friday's property "runs with the property" and is valid for an indeterminate period as long as the property is used in accordance with the Permit. When the City of East Bethel issued the Interim Use Permit on March 18, 2009 with substantial conditions, the City Administration and City Council were concerned about the conditions on Friday's farm and, if he was able or willing to provide the horses with proper care and management.

Mary Haivala is presently employed by Friday as the Manager of his horse herd. They have entered into a Management Agreement, and Ms. Haivala has signed an 8 year lease for residential premises on Friday's farm. The Hearing Officer listened carefully to Ms. Haivala's comments relating to her position as Herd Manager, and read her letter to the City describing her qualifications.

Haivala is a 47 year old woman with two children, ages 13 and 14, who resides in a residential premise on Friday's property. Her experience with the care and management of

horses is “hands on,” but she lacks any type of education or professional qualifications which would prepare her for management of a horse herd the size of Friday’s.

The Management, Care, Custody Control Contract dated January 15, 2012 signed by Friday and Haivala is vague and does not provide Haivala with the type of management control and financial resources to properly manage the horse herd.

As stated by Deputy Sheriff Michael Wahl, Anoka County Sheriff’s Office, in his sworn Affidavit in support of the issuance of a search warrant on November 16, 2011, since at least 2002 the Sheriff’s Office received many complaints about the mistreatment of animals and the welfare of horses on Friday’s farm. In addition, the Animal Humane Society also received dozens of complaints about the maltreatment of horses on his farm. Eventually, in August 2009, Friday pleaded guilty to a misdemeanor count of mistreating animals, which occurred on October 11, 2007.

In the meantime, the City of East Bethel administrators and City Council issued an Interim Use Permit to Friday on March 18, 2009. The City was obviously concerned about the conditions on Friday’s farm, and attached numerous conditions to the issuance of the Interim Use Permit. The Hearing Officer was not provided with any evidence of compliance by Friday with the numerous Permit conditions.

As a result of numerous citizen complaints to the Minnesota Animal Humane Society and the Anoka County Sheriff’s Office, another investigation into the conditions on Friday’s farm was made in August 2011. On August 29, 2011, investigators with the Minnesota Animal Humane Society and Anoka County Sheriff’s Office conducted an inventory of Friday’s herd. At that time, they found 10 horses had a BCS score of 3 or less, 2 had BCS score of 2 or less, and these 2 were immediately removed from the premises and transported to the University

of Minnesota Veterinary Medical Center for evaluation and care. Friday refused to release the other 8 horses which had a BCS score of 3 or less.

On August 31, 2011 a search warrant was executed on Friday's property, and the 8 horses which had a BCS score of 3 or less were seized. At that time, the investigating officers reported the horses were suffering from conditions symptomatic to emaciation and uncontrolled parasite infestation. In the opinion of Investigator Streff of the Minnesota Animal Humane Society, Friday was "engaged in behavior that demonstrates a pattern of culpable negligence that results in emaciation, suffering and eventual death of horses under his direct care and control." In addition, at that time, it was observed that many of the outdoor pens and paddocks had excessive accumulation of feces and/or manure, the farm and paddock areas were in a state of dilapidation that included pens with antiquated fencing, sharp objects and other potential health hazards to horses, many of the penned horses did not have adequate access to hay, the water supply to many of the pens was algae ridden or contaminated, numerous horses showed evidence of external parasite loads, including lice, and the horses needed Ferrier work and some suffered from internal parasites, the hay lacked nutritional value and was contaminated and there was inadequate grain. Based on the investigation, the results of the search warrant and the observations of the investigating officers, it is clear that in August 2011, Friday was not properly caring for the horses on his premises and in violation of the Interim Use Permit.

On November 16, 2011, the Anoka County Sheriff's Department executed another search warrant on Friday's premises for the purpose of investigating complaints and evaluating the health of the horses on the property. Thirty-seven horses were examined and 7 scored a BCS score of 3 or less, and the 7 horses were seized and sent to the University of Minnesota Veterinary Medical Center for evaluation and care.

After the seizure on November 16, 2011, Friday contested the seizure of one of the horses named Special Effects. In accordance with Minnesota law, a hearing was conducted before Judge Jasper at the Anoka County District Court on December 5, 2011 related to the seizure of Special Effects. At that time, Judge Jasper found that the attending veterinarian examined the 7 horses seized and scored 4 horses as a 1 and 3 horses as a 2 on the BCS scale. One horse named Crystal was so ill, they had difficulty loading the horse into the horse trailer for transport. In addition, the veterinarian observed that the feed and hay located on the premises was of poor quality, with garbage visible in the bales, and the only available water supply was half-full, dark, and full of debris.

In her conclusions, Judge Jasper found that Friday did not have the ability to provide appropriate care and feeding for Special Effects, and that he did have control over her care during the period of time her health deteriorated and that she was under his care when she became malnourished and infested with lice. She did not receive appropriate care for her hoofs, and parasite testing or medication. In addition, in spite of the evidence, Friday refused to admit the horse was underweight and malnourished, and claimed that her weight was appropriate.

Jasper authorized the seizure of "Special Effects" because she was not physically fit, and because Friday could not provide the care required by law. As a result, the Animal Humane Society was given full control and custody of Special Effects and authorized to determine an appropriate placement for her.

As a result of the seizures on November 16, 2011 and the conditions observed on Friday's farm, the City of East Bethel's City Attorneys charged Friday with 35 counts of gross-misdemeanor maltreatment of animals, and that criminal case is still pending at the Anoka County District Court.

In summary, in less than a 3 month period, between September 29, 2011 and November 16, 2011, 17 horses under Friday's care were seized from his farm and transported to the University of Minnesota Veterinary Medical Center for care. It is unclear to the Hearing Officer what finally happened with the seized animals, but there was some discussion at the Hearing that at least 2 of them were euthanized.

In preparation for his application for renewal of the Interim Use Permit, Friday enlisted the services of Haivala to act as Herd Manager for his farm. They signed the Management Agreement, Ms. Haivala signed an 8-year lease for residence on Friday's property, and she signed the Land Use Application as the "Applicant."

The two herd reports submitted by Dr. Johnson relating to the examinations in December 2011 and February 2012 show some improvement in the overall health of the horses on Friday's farm.

The application for renewal of the Interim Use Permit was for 27 horses on Friday's farm. Friday only has 25.5 grazable acres, which in accordance with the East Bethel City Code would permit him to maintain a maximum of 25 horses on the premises.

The conditions on Friday's farm which led to the seizure of 17 horses between September and November 2011 have been a concern of the Anoka County Sheriff's Department, the Minnesota Animal Humane Society, and many citizens for at least 10 years. Despite his prosecution for maltreatment of animals in 2007, Friday failed to alleviate the conditions which resulted in the numerous complaints. The employment of Haivala appears to be nothing more than window dressing designed by Friday to gain reissuance of the Interim Use Permit without a true change in the actual conditions on the farm. Haivala and Friday have failed to provide the Hearing Officer with evidence that the herd is being properly managed, and that the unsafe,

dangerous and unhealthy conditions, which have resulted in long standing abuse of horses, have been alleviated. No evidence was produced regarding the conditions of the sheds, barns, paddock areas, and that the horses were being properly nourished and watered as required by Minnesota law, the City Code and the Interim Use Permit.

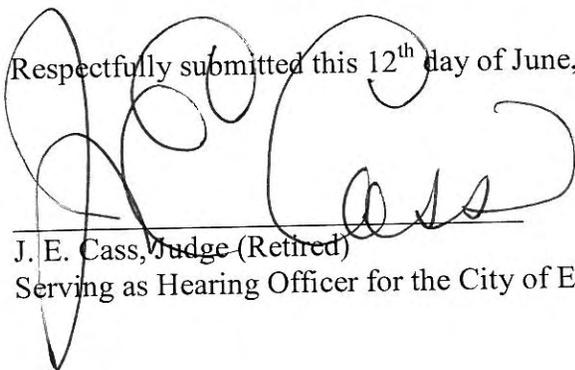
In summary, the Hearing Officer concludes that Friday has done nothing to make significant changes in the conditions on his farm, and if he has done so, he has failed to provide evidence of those changes which would support a decision to recommend to the City that the Interim Use Permit be renewed.

Based on the foregoing findings of fact, conclusions and discussion:

**IT IS HEREBY RECOMMENDED:**

The City of East Bethel should deny the reissuance of the Interim Use Permit to Friday and Haivala.

Respectfully submitted this 12<sup>th</sup> day of June, 2012.

A handwritten signature in black ink, appearing to read 'J. E. Cass', written over a horizontal line. The signature is highly stylized and cursive.

J. E. Cass, Judge (Retired)  
Serving as Hearing Officer for the City of East Bethel, Anoka County, Minnesota.

**RESOLUTION NO. \_\_\_\_\_**

**CITY OF EAST BETHEL  
ANOKA COUNTY, MINNESOTA**

**A RESOLUTION DETERMINING FINDINGS OF FACT AND DENYING THE APPLICATION FOR INTERIM USE PERMIT AS APPLIED FOR BY LOWELL FRIDAY AND MARY HAIVALA, FOR THE KEEPING OF 27 HORSES AT 18215 GREENBROOK DRIVE, EAST BETHEL, MINNESOTA, PROPERTY IDENTIFICATION NUMBER: 34-33-23-33-0027 AND 33-33-23-44-0003.**

**WHEREAS**, the City of East Bethel received on March 16, 2012 an application by Lowell Friday and Mary E. Haivala for renewal or extension of an Interim Use Permit requesting permission to be able to keep 27 horses on the Lowell Friday property, identified as being located at 18215 Greenbrook Drive, Wyoming, Minnesota 55092, affecting Property further described as Anoka County Identification Numbers (PIN) 33-33-23-44-0003, and 34-33-23-33-0027.

**WHEREAS**, the City of East Bethel had previously issued an Interim Use Permit for the keeping of horses on the above-referenced properties, which had expired on March 18, 2012, and,

**WHEREAS**, Mr. Lowell Friday had been advised by the City Planner of the pending expiration date of his former IUP on at least two occasions substantially prior to March 18, 2012, and,

**WHEREAS**, City Ordinance prescribes the requirements that must be maintained consistently upon a property upon which horses are to be maintained, providing for the public health, animal health, and imposing reasonable animal care and shelter regulations, and,

**WHEREAS**, the Lowell Friday operations as proposed are classified as a Class III Horse Operation within the city, regulated under City Ordinance Section 10-154.5, and,

**WHEREAS**, the applicable provisions of City Ordinance 10-154.5 provides as follows:

“It is the purpose of this section to insure the health and safety of domestic farm animals in the city by establishing regulations governing animal shelters, corrals, paddocks, and the keeping of such animals in the city.

- (1) All newly constructed animal shelters must meet or exceed all requirements of municipal, county, and state building and fire codes.

- (2) The following apply to all regulated domestic farm animals:
- a. All animals must be maintained to standards of health specific to the breed.
  - b. All animals must have access to potable water.
  - c. Veterinary records for each animal must be disclosed upon request of the city's designated inspector.
  - d. Animal shelters must be kept in a sanitary manner, free of the odor of ammonia, to the extent practicable.
  - e. A consistent and adequate food and water supply must be available to all animals.
  - f. Fencing must be kept in a manner consistent with Minn. Stats. §§ 344.01—344.20, as amended and renumbered from time to time.
  - g. All domestic farm animals must have access to a shelter.
- (3) Class II and class III horse operations in the city must also comply with the following additional requirements:
- a. Class II and class III horse operations in the city will be inspected and evaluated annually as a requirement of the IUP for conformance with all applicable regulations. The costs of such inspection and evaluation must be paid by the holder of the permit as part of the annual permit fee. Nonpayment of such costs will be grounds for termination of the permit. In addition to a class III horse operation, an inspection by a doctor of veterinary medicine licensed to practice in Minnesota must accompany the city's inspector on all inspections. Failure to provide access for inspection will be grounds for termination of the IUP.
  - b. Stall doors must be in good repair and easily opened and closed.
  - c. An evacuation plan for humans and animals must be displayed in all animal shelters.
  - d. Grain and hay dust must be minimized to the extent practicable.
  - e. Aisles must be kept free of debris and impediments to movement by humans and animals.

- f. There must not be any protruding objects in any animal shelter which could cause injury to humans or animals.
  - g. Drainage must be adequate to prevent accumulations of water to facilitate cleaning of animal shelters and paddock areas.
  - h. Animal bedding must be clean and of a material customarily used for animal bedding purposes.
  - i. Lights and windows must be animal proofed to prevent breakage, to the extent practicable.
  - j. Grain and forage must be free from mold and miscellaneous debris, to the extent practicable.
- (4) The city's designated inspector and any peace officers of the state and all other personnel under the direction and control of the city whom the inspector believes necessary must be allowed access for inspection purposes on any parcel with an approved IUP upon 12-hours' notice. An application for an IUP under this article will be deemed the consent of the owner of the property to such inspections.
- (5) IUPs not in compliance with this article will be cited accordingly but may be granted time, at the city inspector's discretion, to come into compliance with the requirements of this section. In the event an extension of time is granted, a plan to implement the noncompliant requirements by an agreed upon date must be signed by the parties and filed at city hall. The plan must include clearly defined steps for coming into compliance, each of which must be completed by a specific date. Failure to complete the agreed upon steps by the specified dates will be grounds for termination of the IUP. In no case, however, may an extension exceed 75 days from the date of inspection, and only one extension can be granted.”

*(Ord. No. 13, Second Series, 10-7-2009)*

**WHEREAS**, Lowell Friday has been previously charged in 2011 within the Anoka County District Court with criminal complaints with regard to the keeping of horses in a manner so as to constitute animal neglect, and,

**WHEREAS**, Lowell Friday has a previous conviction in 2007 for animal neglect regarding the care of horses in his possession, and,

**WHEREAS**, City Ordinance Section 10-151 regulates the issuance of Interim Use Permits, imposing acreage requirements for domestic farm animals, which provides:

“Sec. 10-151. - Interim use permit (IUP) and acreage requirements for domestic farm animals; nondomestic animals prohibited.

- (a) Nondomestic animals are not allowed to be kept within the city.
- (b) An IUP is required for the keeping of domestic farm animals as regulated by this article in the city. The procedure for the issuance of an IUP will be in accordance with the City Code.
- (c) No animal regulated by this article can be kept on a parcel of land located within a platted subdivision or on any parcel of land of less than three acres. Provided further, that if 80 percent of the lots within a platted subdivision are larger than three acres, an IUP for keeping a regulated animal may be issued for any of those lots larger than three acres.
- (d) Upon the transfer of the title of a parcel for which parcel an IUP is in effect on the effective date of this article, the new owner may apply for an IUP for the keeping of such animals if the existing permit is in effect and in good standing at the time the title to the property is transferred.
- (e) Meeting the acreage requirements set out in this section does not in and of itself entitle an applicant to an IUP.
- (f) IUPs in existence on the effective date of this article for parcels not in compliance with these acreage requirements will be allowed to continue but only as legal, nonconforming uses.
- (g) It is a requirement for all IUPs issued under this article that a minimum of one fenced acre of pasture land plus any indicated fraction thereof must be provided for each animal unit described below as the animal equivalent for the animal to be kept pursuant to the IUP.
- (h) The following equivalents will apply when determining the animal units defined below:

<b>Animal</b>	<b>Animal Units Per Acre</b>
1 Swine	0.4
1 goose or duck	0.2
1 goat or sheep	0.5

1 turkey	0.10
1 bovine	1.4
1 equine	1.0
1 chicken or pheasant/quail	0.01
1 emu or ostrich	1.0
1 alpaca or llama	1.0

(i) Animals may graze within shoreland and bluff impact zones provided permanent vegetation is maintained and a plan has been submitted that is consistent with the technical guides of the Anoka Conservation District.

(j) *Exceptions.*

(1) Youth development organizations may apply for an IUP in accordance with section 10.157. The IUP shall cover individual groups and members of the youth development organization; IUP application fees shall be waived. The IUP shall expire five years from the approval date at which time the organization must reapply for the IUP. In conjunction with the organization's approved IUP, individual members shall comply with the following:

- a. Each member of the organization must complete a youth development project permit application prior to farm animals being kept on the property. The permit will be reviewed by city staff within two weeks of submittal of a completed application.
- b. It is a requirement for all permittees to have a minimum of one acre of pasture land to accommodate the farm animals.
- c. Permittee must comply with all other farm animal regulations set forth in the code.
- d. Approved farm animals must be removed from the property within 30 days of the expiration of the permit.
- e. In the event a permittee would like to keep the farm animals after the expiration of the project permit, an individual IUP must be applied for and approved. The permittee must meet requirements of the code.

(2) Domestic farm animals with an animal unit of 0.01 or less per acre are permitted without an IUP with the following conditions:

- a. A maximum of ten animals may be kept on a parcel with a minimum of one acre of pasture land without an IUP so long as all other requirements set forth in the code are met.
- b. The keeping of 20 plus animals requires an IUP and must meet all requirements set forth in the code, including acreage.”

*(Ord. No. 13, Second Series, 10-7-2009)*

**And,**

**WHEREAS**, the keeping of horses under the City’s Ordinance would require 1 acre per animal for a minimal dimensional requirement regarding the keeping of horses, and,

**WHEREAS**, the City Council directed that an independent Hearing Examiner be engaged to conduct a public hearing, make findings, and make recommendations to the City Council relative to the application submitted by Mr. Friday and Ms. Haivala, and,

**WHEREAS**, the City Council for the City of East Bethel is in receipt of the Hearing Examiner’s report and recommendations, a true and correct copy of which is annexed hereto as Exhibit A and incorporated by reference herein, and,

**WHEREAS**, the City Council for the City of East Bethel approves of the Hearing Examiner’s findings and recommendations, and,

**WHEREAS**, the City Council finds that Mr. Lowell Friday and/or Ms. Haivala know that horses kept under his direction and control have not been cared for within the terms and provisions of the City Ordinance Section 10-151 and 10-154.5 with regard to the keeping of animals so as to promote animal health, and to comply with the animal shelter regulations of the City of East Bethel, and,

**WHEREAS**, the City of East Bethel finds that Mr. Lowell Friday and/or Ms. Haivala are not capable of providing for horses upon the property of Mr. Friday located at 18215 Greenbrook Drive, and have not demonstrated their ability and capacity to comply with the terms and provisions of the City’s Ordinances with regard to animal health and animal shelter regulations, have not provided any credible evidence with regard to their resources, financial and otherwise so as to secure the proper care and treatment for horses and their care at that location, have in the past repeatedly failed to provide consistent wellness and care for animals under their direction and control at that location, and have not provided the City or the Hearing Examiner with any credible evidence that would allow the City to determine that past deficient conditions on the Lowell Friday property have been corrected and credible processes have been put in place to secure the welfare of animals now kept on that site, or proposed to be stored under the purposes of the Permit as applied for.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council for the City of East Bethel as follows:

That the Application as submitted, dated March 16, 2012 by Lowell Friday and Mary E. Haivaila, be and the same, is hereby denied.

Passed by the City Council for the City of East Bethel this 20<sup>th</sup> day of June, 2012.

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Richard Lawrence, Mayor

ATTEST:

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Jack Davis  
City Administrator

## EAST BETHEL PARK COMMISSION MEETING

May 9, 2012

The East Bethel Parks Commission met on May 9, 2012 at 7:05 P.M at the East Bethel City Hall for their regular monthly meeting.

MEMBERS PRESENT: Kenneth Langmade Sue Jefferson Bonnie Harvey Stacy Voelker  
Denise Lachinski

MEMBERS EXCUSED: Tim Hoffman

ALSO PRESENT: Nate Ayshford, Public Works Manager  
Richard Lawrence, Mayor

Adopt Agenda **Jefferson motioned to adopt the agenda as submitted. Voelker seconded; all in favor, motion carries.**

Approve – April 11, 2012 Meeting Minutes Lawrence had a question on page 4, 3<sup>rd</sup> paragraph down, kids playing soccer should that be two Andover or is that another city. It should be 209 Ham Lake, not Andover Teetzel stated.

**Jefferson made a motion to approve the April 11, 2012 minutes with the one change. Harvey seconded; motion carries unanimously.**

Parks Financial Information – Parks Capital Funds Summary Ayshford said pertaining to the operations budget we are essentially 1/3 of the way through the year. A couple line items are which are higher such as equipment repairs are due to spring maintenance on vehicles and those line items should level off. The building repairs and maintenance line item 42% has been spent. A lot of that went to the community center. He stated we upgraded the exit lights, and there were a few other upgrades done, and they came out of that account. Voelker asked what the equipment repairs were. Ayshford said that was oil changes and a broken hydraulic line.

**Jefferson motioned to accept the financial reports as presented. Voelker seconded; all in favor, motion carries unanimously.**

2012 Park Survey Results The East Bethel Park Commission developed a survey to gather information to assist in future park and trail planning. The survey was made available to residents on-line on the City's website, in-person at City Hall, in-person at the Town Hall Meeting, and in-person at the Coon Lake Market. The deadline for completing the survey will be May 4, 2012.

The results were tallied and provided at the May 9<sup>th</sup> Park Commission meeting. There were 59 responses that came in. Most of the respondents look like they lived here for some time. Most of them were adults and didn't have children. Jefferson said wouldn't you think it would be other way around. Lachinski said she did put it on the East Bethel Booster Day Facebook page.

Ayshford said on the second page, people stated they use Booster Park. Lachinski said the second place one was none. That is pretty odd.

Ayshford informed the Commission that the survey was also sent out to a group that receives emails from the City. This is a group of people that have been involved, and lived in the City for a long time and have grown children.

Ayshford said there were comments that were written in also. Trails were a big item that people wanted to see. They also wanted to see upkeep and security issues addressed. Someone surveys asked for less parks. They also threw a few surveys away, since their responses were inappropriate.

Ayshford stated on the third page it shows the different priorities on how people rated fields, trails, playgrounds and trails. The highest response was paved trails, followed by playgrounds. On line seven, staff compiled the number of responses for each activity listed. The five bold ones were the five highest responses. The last two pages are comments people had added for questions five, six and seven. Ayshford asked the Commission to read through the comments when they have time. Most of the responses were to the leisure passive spectrum, hiking, fishing, hunting and fishing. Stargazing was also one commented on. Jefferson said you don't have to go to a park to do that. Lachinski said you do if you live in the City.

Jefferson asked what the person meant by "where are they". What do they mean? Lachinski said I think they meant where the parks located are. Lachinski said on the website they don't really tell how to get to the different parks. Voelker said it would be nice to have the 360 view on the parks. Ayshford asked if Voelker knew how you get those. Lachinski said realtors have them. Ayshford said that would be a good idea.

Langmade asked what the horse trail is. Harvey said it was what Laurie wanted before. Jefferson said no one knew who would do the fencing or the upkeep of the trail. Harvey said at one time they were looking to do a horse arena, had a grant and were looking at putting a trail by the Cedar Creek. But the University didn't want the horse droppings.

Harvey said we got less response on this, than on the other one. She was also wondering how long this was exposed for. Langmade didn't think it was that long. Harvey asked if there any chance we could keep receiving these or a suggestion box. Voelker said maybe even online. Harvey said yes. Ayshford said he could look into that.

Harvey said if people see it, they might think about it too. She was also wondering if he had an extra copy of the results, as she would like a drop off an extra copy to the store down by the lake. Ayshford said they had it in a goofy area at that store.

Lachinski suggested doing the survey on Booster Day. Harvey said it is just a matter of running copies and having it available there. Ayshford said you might get families with kids then. Langmade said he wondered why someone would want the old school house removed.

Ayshford said we could look at doing it again next winter. Harvey said she was surprised that there were so many hunters. Jefferson was wondering if there was a motion needed. She said we kind of knew what people were generally interested in. Langmade is surprised there weren't more responses on it.

Voelker asked how many people were enrolled on the email distribution list. Lachinski said there are about 100 or a little more. Ayshford said most came back from online. About 10 were dropped in the box here.

2013-2017  
Parks Capital  
Improvement  
Plan

The Parks Commission prepares a Capital Improvement Plan annually which updates projected projects, evaluates priorities and establishes funding for these works for the coming year and for each of the subsequent years for a four year period. This plan is presented to City Council for their approval and use for preparing the coming year's budget.

Attached is the 2012-2016 Parks CIP. We will discuss those projects that are listed for 2013 and determine if they need to stay in their current funding year or be rearranged to reflect any changes in our park priorities. Other projects can be added and existing ones can be deleted if there is a need for restructuring the schedule.

Proposed 2013-2017 Park Acquisition and Development Fund - The total amount of projects scheduled for 2013 is \$105,000 plus any park and/or trail dedication fees from new development.

Proposed 2013-2017 Parks Capital Fund - Also attached is the proposed 2013-2017 Parks CIP with changes recommended at previous Park Commission meetings.

Proposed 2013-2017 Trails Capital Fund - Recommend proposed 2013-2017 Parks CIP to City Council for the 2013 Budget. 2013 needs to be finalized this year, but the rest can be changed.

Ayshford provided the Commission with a letter received from a Whispering Oaks resident, addressing concerns to improve the park.

The first one we will discuss is the Park Acquisition and Development Fund. Ayshford recommend that we kept what we have in place and pushed it back a year. In 2013 the City is not budgeting for many park dedication fees.

The second fund to address is the 2013-2017 Parks Capital Fund. This money comes from the general fund. We are budgeted at \$100,000 per year. Ayshford said what we talked about at the last meeting was Whispering Aspens. There is no playground equipment at that location right now. This development is comprised of smaller lots with a community building located in the development. The facility is rented out regularly, so it would be nice to have some playground equipment at the site. The Commission agreed that it was important to have equipment at this site.

Landscaping at the parks was discussed. Ayshford advised the park at Whispering Oaks still has pea rock and would be a good candidate to move up. He said the equipment at Booster East and Rod and Norma were put in at the same time. Lachinski asked how long they expect playground equipment to last. Ayshford said 15 years. He advised the equipment at Booster will last about 20 years. Jefferson asked about the red and white playground equipment. Ayshford said that has all been removed. Harvey said there was a duck merry-go-round that she loved so much.

Ayshford said for 2014 there is the possibility of converting some of the soccer fields to a grass baseball field. Lachinski said she was at a St. Francis Baseball meeting, and they were interested in a regulation field. Ayshford said he believes the SAA representatives estimate was low at \$72,000.

Ayshford said the only budget we have to complete and will be carried through on is the 2013 budget. The others can be moved around in the future.

Jefferson said the letter we received, what about Whispering Oaks Park. Harvey said we did put in an irrigation system there a couple of years ago. Ayshford said we will look at doing an over seeding. Harvey said she supports doing the turf work since we put in the irrigation systems. Jefferson said she did too.

Ayshford said the baseball fields out here aren't getting any use. So his idea is to let North Metro use the fields this fall, and charge a \$200 fee or so for trash pick-up. If we will have a need for at Bonde Park, then we can do work there. Lachinski said they pay about \$800 for irrigation in Oak Grove. Ayshford said they also donated \$100,000 to renovate a park. He is not sure how much use they will need over here in East Bethel. He ensured the Commission

that he isn't worried about his Department having any expensive costs with the field maintenance. He said if it doesn't pan out we can look at moving things up. We also have monies budgeted for replanting the parks. Lachinski said they are dust bowls; something needs to be done about that.

Ayshford asked if there are any other suggestions. Lachinski said we talked about upgrading the signs for the parks. Ayshford said they bought a router and now can make signs. He would like to have some Eagle Scouts do a sign project. Lachinski said the some of the signs are covered by trees. Ayshford asked where and if it was at John Anderson. Lachinski said yes, and the parks also need benches and bike racks. Ayshford said people would like benches around the Booster Pond. He said there is \$40,000 budgeted for Booster Park. There are a lot of people that like to walk around the trail. Harvey said she is comfortable with these changes.

**Harvey motioned to approve the 2013-2017 Park Acquisition and Development Fund, 2013-2017 Parks Capital Fund with recommended changes and the 2013-2017 Trails Capital Fund. Jefferson seconded; all in favor, motion carries unanimously.**

**Council  
Report and  
Other  
Business**

Ayshford went over the Geocaching brochure. He said they have went through all the parks and found them. There is one that is missing, that is Hidden Haven. There is a lot of interest in it. This is a draft brochure. Once it is final, it will be available at City Hall.

Their website has all different kind of information. We are directing people to their website for more information.

Ayshford explained the items geocached can range in size from a test tube to an ice cream bucket. There are about 200 of them in East Bethel besides what is in this brochure.

Voelker said it is a very nice brochure. Harvey asked if it is up and going. Ayshford said once Hidden Haven is done, then geocaching will be ready to go.

Ayshford said there was vandalism at Booster West. Someone kicked a hole in the tornado slide and an insurance claim was made for \$6000.00. The replacement slide should be here pretty soon.

The park equipment at Norseland Manor is up and running. They have a swirly merry-go-round thing for kids. It is the same piece of equipment that will be putting in Coon Lake Beach Park. There will also cyclone put in Booster West. That is all purchased and ordered.

Lachinski asked about vandalism near the skate board park. Ayshford said there have just been trash this year and no damage.

He said they did look at putting in the lights at the pavilions. The cost is about \$1200. Lachinski asked if they were solar. Ashford said no they are hard wired.

Langmade asked if there have any more comments on late night use at Norseland. When they were he stated it was older kids, leaving broken beer bottles. Lachinski said do they think it is older kids. Harvey said yeah. Langmade said that one of the residents had a light that shown on the park, and they went and knocked it out. Ayshford said that is part of the capital improvement is to put in this year - a parking lot at that park. It was recommended that maybe we could put in a street light.

Ayshford advised we donated that equipment to Kids Around the World. They came and helped us take down the playground equipment. He advised that the people who came in from Kids Around the World are retired and they travel around doing this. They will be sending the equipment over to Poland.

Harvey asked if there is a bike rack with the excess equipment. Ayshford said he will check on that. Ayshford asked if there has been much use of the tennis courts. Harvey said she didn't notice, she doesn't live right there but she will go and check it out.

Harvey asked if she could get an application for adopt the park. She wanted to see what it looks like. Ayshford said they have had volunteers so far for four parks.

Voelker asked if there are specific neighborhood watch groups. Ayshford said that is done by the County. Voelker was wondering if neighborhoods wanted to adopt parks.

Ayshford advised Langmade for the donation for the doors for the school house you can drop the check to Rita. Langmade said he told Joan their treasurer to drop off a check to the City of East Bethel. Ayshford said they have to have the money donated to the City. We have ordered the doors and windows and they should be arriving very soon. Lachinski hasn't heard back from the Fire Department yet, so she doesn't know about volunteers. Langmade said his daughter had more school desks donated. Lachinski said there are a few people that wanted to volunteer in the school house for Booster Day

**Adjourn**

**Harvey motioned to adjourn the May 9, 2012 meeting at 7:55 p.m. Lachinski seconded; all in favor, motion carries unanimously.**



# City of East Bethel City Council Agenda Information

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**Date:**

June 20, 2012

\*\*\*\*\*

**Agenda Item Number:**

Item 8.0 C.1

\*\*\*\*\*

**Agenda Item:**

Park Commission Meeting Minutes for May 9, 2012

\*\*\*\*\*

**Requested Action:**

Information Only

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**Background Information:**

Information Only. These minutes are in draft form. They have not been approved by the Park Commission.

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**Fiscal Impact:**

None

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**Recommendation(s):**

Information Only

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**City Council Action**

Motion by:\_\_\_\_\_

Second by:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Vote Yes:\_\_\_\_\_

Vote No:\_\_\_\_\_

No Action Required:  X



# City of East Bethel City Council Agenda Information

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**Date:**

June 20, 2012

\*\*\*\*\*

**Agenda Item Number:**

Item 8.0 D.1

\*\*\*\*\*

**Agenda Item:**

Road Commission Meeting Minutes for May 8, 2012

\*\*\*\*\*

**Requested Action:**

Information Only

\*\*\*\*\*

**Background Information:**

Information Only. These minutes are in draft form. They have not been approved by the Road Commission.

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**Fiscal Impact:**

None

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**Recommendation(s):**

Information Only

\*\*\*\*\*

**City Council Action**

Motion by:\_\_\_\_\_

Second by:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Vote Yes:\_\_\_\_\_

Vote No:\_\_\_\_\_

No Action Required:  X

**EAST BETHEL ROAD COMMISSION MEETING**  
**May 8, 2012**

The East Bethel Road Commission met on May 8, 2012 at 6:30 PM at the City Hall for their regular monthly meeting.

MEMBERS PRESENT: Jeff Jensen Roger Virta Deny Murphy Al Thunberg Bob DeRoche  
Lori Pierson-Kolodzienski

MEMBERS EXCUSED: Kathy Paavola

ALSO PRESENT: Nate Ayshford, Public Works Manager

Adopt Agenda **Thunberg made a motion to adopt the May 8, 2012 agenda with the addition of a Public Forum. Jensen seconded; all in favor, motion carries.**

Approve Minutes – April 10, 2012 Virta wanted a change on page 1. One paragraph was repeated from a previous meeting and should be removed. Also a change on page 6 reflecting his thoughts that a lot of other development is not related to retail. DeRoche requested a change on page 4 and 6 to better represent what was being discussed.

Public Forum **Jensen made a motion to adopt the April 10, 2012 minutes as amended. Murphy seconded; all in favor, motion carries.**  
Douglas Tierney at 4610 Viking Blvd and Barb Bouljon from the Coon Lake Beach Improvement Association appeared before the Commission to present the need for DNR Invasive Species signage at points around the lake that are open to the public. The main areas of concern are the streets located off of East Front Blvd and Lake View Point. Mr Tierney stated that he attended a DNR seminar on invasive species in waters and believes by posting these areas, the chance of spread will be diminished. The Road Commission agreed that invasive species are a threat to public waters and signs are useful. There was concern as to how much use the public areas receive and whether posting signs my invite more use and increase the chances of spreading unwanted aquatic hitchhikers. Ms. Bouljon stated that the signs are available from the DNR at no cost. The Road Commission thanked the residents for coming and would add the item to the next Roads Agenda.

Road Financial Information and Roads Capital Funds Summary Ayshford stated the first sheet is the operations budget and that there have been no real large, unexpected expenses so far. We are 1/3 of the way through the year and most of our projections are at or below our budgeted levels.

2013-2017 Roads CIP The Roads Commission prepares a Capital Improvement Plan annually which updates projected projects, evaluates priorities and establishes funding for these works for the coming year and for each of the subsequent years for a four year period. This plan is presented to City Council for their approval and use for preparing the coming year's

budget.

Attached is the 2012-2016 Roads CIP. We will discuss those projects that are listed for 2013 and determine if they need to stay in their current funding year or be rearranged to reflect any changes in our roads priorities. Other projects can be added and existing ones can be deleted if there is a need for restructuring the schedule.

Also attached is the proposed 2013-2017 Roads CIP. It reflects the recommended changes that have been discussed at previous Road Commission meetings.

The Roads Commission reviewed the proposed CIP with the changes that were discussed at the April 10 meeting.

**Jensen motioned to recommend the 2013-2017 Roads CIP. Thunberg seconded; all in favor, motion carries.**

Street  
Maintenance  
Funding  
Analysis

Staff is seeking input on the equipment replacement schedule for preparing the 2013 budget. Each department budgets for equipment replacement as part of their annual operating budget. A schedule has been developed to help plan for these scheduled replacements. If replacement costs increase or new equipment is needed that is not part of the replacement schedule, then additional funds must be budgeted for.

In addition to reviewing the entire schedule, one specific piece of equipment that was scheduled for replacement will need to be addressed. The 1997 Ford L8000 was originally scheduled for replacement in late 2010/early 2011 with the purchase of a new single-axle dump/snowplow truck. After that purchase was made the City continued to use the 1997 L8000 as one of the 5 trucks with a designated snowplow route on part of the City's 131 miles of roads. Currently there is no planned replacement for this vehicle and with its age and condition, it cannot be expected to be a reliable, cost effective snowplow truck for much longer.

Staff is seeking a recommendation on whether to continue plowing with 5 snowplow routes and schedule the replacement of the 1997 L8000 or provide snowplow removal with 4 snowplows. Removing it from service would increase the remaining 4 snowplow routes by 25%. The replacement of the L8000 is estimated to cost approximately \$145,000 to \$160,000. With 5 snowplow routes, there is an increase in maintenance costs, but a reduction in overtime and quicker plow-out times. The costs of cutting edges, fuel, and salt will remain consistent.

Other equipment needs that are not on the vehicle replacement schedule include a backhoe/mini excavator for servicing utility infrastructure, storm water issues, and cemetery service and a vehicle maintenance hoist for maintenance personnel to work off of the ground.

Jensen asked if the funds for all of the city's equipment came out of one account. Ayshford stated yes. Thunberg stated he felt that the City should continue to keep using 5 dump trucks for the 5 current plow routes. The difficulty would be finding ways to finance the purchase. The other commissioners echoed those same thoughts. They stated that the 1997 L8000 should be replaced with a more reliable vehicle.

**Thunberg motioned to approve the equipment replacement schedule and to explore ways to include replacement of the 1997 L8000 so that the City can continue with 5 main plow routes. Pierson-Kolodzienski seconded; all in favor, motion carries.**

Council  
Report and  
Other  
Business

Staff and the Roads Commission will discuss current issues facing the City Council with the City Council liaison, Councilmember Robert DeRoche.

Councilmember DeRoche updated the Commission on the status of the utilities projects that are underway. Ayshford updated the Commission on the timelines for some of the street improvement projects that were scheduled for 2012 as well as some of the MnDOT and Anoka County Projects.

Adjourn

**Thunberg made a motion to adjourn the April 10, 2012 meeting at 8:17 PM. Jensen seconded; all in favor, motion carries.**



# City of East Bethel City Council Agenda Information

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**Date:**

June 20, 2012

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**Agenda Item Number:**

Item 9.0 E.1

\*\*\*\*\*

**Agenda Item:**

East Bethel Parks Geocaching Program Presentation

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**Requested Action:**

Informational Item

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**Background Information:**

Staff, the East Bethel Park Commission, and volunteers from the community have developed a program to help promote the City’s park system and introduce people to the activity of geocaching. Geocaching is a real-world outdoor treasure hunting game. Players try to locate hidden containers, called geocaches, using GPS-enabled devices. Hundreds of thousands of these containers have been hidden around the world by participants of this activity. Numerous geocaches are hidden in East Bethel with many already existing in our park system.

Our program uses geocaches that were previously hidden by volunteers in our parks as part of a series. Participants are asked to locate caches in all of our parks and record a letter located on the cache to prove they have been found. Once all of the letters are recorded a phrase will be revealed. While participating in the program, they will be introduced to parks that they may have not previously known about. It also should bring park visitors from outside the community who would have previously not planned on visiting.

**Attachments:**

#1 East Bethel Parks Geocaching Trail brochure

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**Fiscal Impact:**

N/A

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**Recommendation(s):**

Informational item

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**City Council Action**

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

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Vote Yes: \_\_\_\_\_

Vote No: \_\_\_\_\_

No Action Required: \_\_\_\_\_

## Visit East Bethel's Parks!

Geocaching combines technology with outdoor adventure and is a great way to explore East Bethel's Park System. Players try to locate hidden containers, called geocaches, using GPS-enabled devices in this real-world, outdoor treasure hunting game.

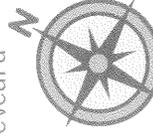
24 geocaches have been hidden in various parks throughout the city. The geocaches range in size and difficulty and contain a logbook or log sheet to record who has found the cache. Some geocaches contain items placed by others that can be swapped out. If you take an item, replace it with something of equal or greater value.

The name of the park and the geocaching code for each of the hidden geocaches is located in the table to the right. Enter the code at geocaching.com to get the GPS coordinates and other clues as to the geocache location. Each geocache has a letter on the cache itself or in the logbook to record. Locate all 24 letters to reveal a hidden phrase and return the table to East Bethel City Hall.



## GEOCACHING IN 8 EASY STEPS

1. Go to [www.geocaching.com](http://www.geocaching.com) and register for a free account.
2. Visit the [Geocaching.com](http://Geocaching.com) homepage.
3. Enter a geocache code from the table at the left.
4. Enter the coordinates of the geocache into your GPS device.
5. Use your GPS device to help you find the hidden geocache.
6. Record the letter located on the cache or in the logbook onto the table at the left.
7. Sign the logbook and return the geocache to its original position.
8. Find all of the 24 geocaches and their letters to reveal a hidden phrase.



### Tools for Geocaching

- GPS Device (hand-held unit, mobile phone with GPS application)
- [Geocaching.com](http://Geocaching.com) Membership

Park Name	Geocache Code	Cache Letter
Booster East	GC3HA5F	
	GC2C6J6	
Booster West	GC3HA5J	
	GC2CCY1	
	GC3HA5A	
John Anderson	GC395M4	
	GC395M4	
Bonde	GCZVXD	
Hidden Creek	GC3KYW1	
Anderson Lake	GC27ZAN	
Whispering Oaks	GC2T1PH	
	GC2T1Q1	
Eveleth	GC21QDW	
Rod & Norma Smith	GC27N2A	
Cedar Creek	GC2958R	
	GC29596	
	GC2959J	
Ecosystem Science Reserve	GC2959W	
	GC2959W	
Norseland Manor	GCVV DY	
Eagle Ridge	GC3HCCT	
Maynard Peterson	GC3H19G	
Northern Boundaries	GC3HAYH	
Carlisle	GC3HAYV	
Deer Haven	GC3HAYY	

## Rules of Geocaching

- All of the 24 geocaches that are part of the EAST BETHEL PARKS GEOCACHING TRAIL are located on public property. Please stay off and respect private property.
- If you take something from the cache, leave something of equal or greater value.
- Don't place items such as food, explosives, knives, drugs or alcohol in a geocache.
- Geocache contents should be family friendly.
- Respect local laws and obey posted signs.
- Do not damage infrastructure, vegetation, or any other objects while searching for geocaches.
- Write about your find in the cache logbook.
- Log your experience at [www.geocaching.com](http://www.geocaching.com)

Explore the Thousands of Geocaches Hidden Around the World!

Visit [Geocaching.com](http://Geocaching.com) for information, instructional videos, and any other geocaching questions!!!



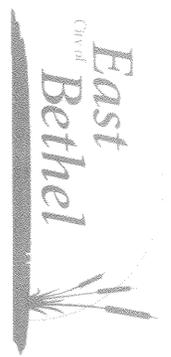
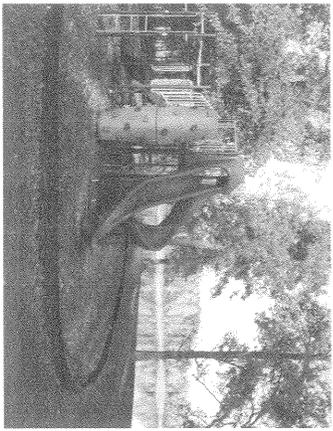
## Have Fun and Enjoy East Bethel's Parks!

East Bethel City Hall  
2241 221st Ave NE  
East Bethel, MN 55011  
Phone: 763-367-7840  
Fax: 763-434-9578  
[www.ci.east-bethel.mn.us](http://www.ci.east-bethel.mn.us)

Special Thanks to the Volunteers who have Helped with this Program!

- [morristhecat](#)
- [Trail Zombie](#)
- [rebelex](#)
- [mrvan](#)
- [Valsey](#)
- [CachingGrandpa](#)
- [SS Nature Girl](#)
- [mazeophobic](#)

## EAST BETHEL PARKS GEOCACHING TRAIL



*Geocaching is a real-world outdoor treasure hunting game!*

# City of East Bethel

Subject: Fire Inspector Report

May 1 – 31, 2011

## City of East Bethel Fire Inspection List

Name	Address	Comments
Valders Vehicle	18805 Hwy 65 Suite A	Fire extinguishers, lock box, elec. room label, and post occupant load.
Saarela Ins.	1535 Viking Blvd	Fire Extinguisher
Wholesale Marine	18801 Hwy 65 Suite B	Fire Extinguisher
Build By Design	1815 Viking Blvd	Remove Exit Sign and provide fire extinguisher
East Bethel Ice Arena	Hwy 65	Lock box moved and key is in.
East Bethel City Hall	2241 221 St.	Measure council chambers for occupant load
Avatan	525 Sims Rd	Emergency lighting and GFI outlets
NOTE: First Inspections Unless Noted		

Businesses Inspected

Reported by: Mark Duchene

Fire Inspector



# City of East Bethel City Council Agenda Information

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**Date:**

June 20, 2012

\*\*\*\*\*

**Agenda Item Number:**

Item 9.0 F.1

\*\*\*\*\*

**Agenda Item:**

Fire Department Monthly Reports

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**Requested Action:**

Informational only

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**Background Information:**

Fire Department Monthly Report.

To aid in your understanding, staff has included as Attachment #1 the Incident Type Codes it appears on the reports.

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**Fiscal Impact:**

None

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**Recommendation(s):**

Informational only.

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**City Council Action**

Motion by: \_\_\_\_\_

Second by: \_\_\_\_\_

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Vote Yes: \_\_\_\_\_

Vote No: \_\_\_\_\_

No Action Required: \_\_\_\_\_

## **INCIDENT TYPE CODES**

- 100 Fire
- 200 Overpressure Rupture, Explosion, Overheat (No Ensuing Fire)
- 300 Rescue and Emergency Medical Service (EMS) Incidents
- 400 Hazardous Condition (No Fire)
- 500 Service Call
- 600 Good Intent Call
- 700 False Alarm and False Call
- 800 Severe Weather and Natural Disaster
- 900 Special Incident Type

**EAST BETHEL**  
**Incident Calls**  
**May 2012**

Incident Number	Incident Date	Alarm Time	Location	Incident Type
214	05/31/2012	19:08	21730 Zumbrota ST	321 EMS call, excluding vehicle accident with injury
213	05/31/2012	18:30	100 E Sartell ST	111 Building fire
212	05/31/2012	10:36	18164 Highway 65 HWY	611 Dispatched and cancelled en route
211	05/30/2012	20:21	NE Viking BLVD NE	600 Good intent call, other
210	05/30/2012	19:56	18164 65 HWY NE	321 EMS call, excluding vehicle accident with injury
209	05/28/2012	09:50	4631 Viking BLVD NE	444 Power line down
208	05/27/2012	21:18	23539 Monroe ST NE	444 Power line down
207	05/27/2012	21:02	2241 221 <sup>st</sup> AVE NE	444 Power line down
206	05/27/2012	20:59	607 Lincoln DR NE	611 Dispatched and cancelled en route
205	05/26/2012	18:09	1545 209th AVE NE	321 EMS call, excluding vehicle accident with injury
204	05/25/2012	21:03	22935 Durant ST NE	611 Dispatched and cancelled en route
203	05/25/2012	16:05	21001 Kenyon ST NE	321 EMS call, excluding vehicle accident with injury
202	05/24/2012	18:05	24355 65 HWY NE	321 EMS call, excluding vehicle accident with injury
201	05/23/2012	11:48	415 Cedar RD NE	600 Good intent call, other
200	05/23/2012	00:09	21001 Kenyon ST NE	321 EMS call, excluding vehicle accident with injury
199	05/21/2012	11:51	217th	611 Dispatched and cancelled en route
198	05/19/2012	23:11	18407 Highway 65 HWY	321 EMS call, excluding vehicle accident with injury
197	05/19/2012	22:52	NE Highway 65 north HWY	611 Dispatched and cancelled en route
196	05/19/2012	12:58	4000 NW Ceder Creek DR	143 Grass fire
195	05/19/2012	11:15	19248 Greenbrook DR NE	322 Motor vehicle accident with injuries
194	05/19/2012	08:32	2660 Fawn Lake DR NE	322 Motor vehicle accident with injuries
193	05/19/2012	01:13	312 Laurel RD NE	600 Good intent call, other
192	05/18/2012	13:31	20204 65 HWY NE	611 Dispatched and cancelled en route
191	05/17/2012	21:03	18407 Highway 65 NE	321 EMS call, excluding vehicle accident with injury
190	05/16/2012	09:26	19354 4th ST	611 Dispatched and cancelled en route
189	05/15/2012	18:10	4977 N Tri Oak CIR NE	321 EMS call, excluding vehicle accident with injury
188	05/15/2012	16:58	466 196 AVE NE	321 EMS call, excluding vehicle accident with injury
187	05/14/2012	21:14	339 Ceadr RD	321 EMS call, excluding vehicle accident with injury
186	05/14/2012	20:43	20300 Hwy 65 HWY NE	611 Dispatched and cancelled en route
185	05/14/2012	17:06	4515 224th AVE	321 EMS call, excluding vehicle accident with injury
184	05/13/2012	19:33	22500 sandy DR NE	321 EMS call, excluding vehicle accident with injury
183	05/13/2012	10:38	19543 NE Jamestown ST	321 EMS call, excluding vehicle accident with injury
182	05/12/2012	14:12	20926 Beaver Dam CT	600 Good intent call, other
181	05/12/2012	09:18	18115 FLANDERS ST NE	321 EMS call, excluding vehicle accident with injury
180	05/10/2012	23:48	24355 65 HWY	321 EMS call, excluding vehicle accident with injury
179	05/10/2012	20:05	4542 195 AVE	650 Steam, other gas mistaken for smoke, other
178	05/09/2012	02:47	18358 Jenkins ST NE	611 Dispatched and cancelled en route
177	05/08/2012	14:07	2660 NE Fawn Lake DR	131 Passenger vehicle fire
176	05/08/2012	12:06	2557 225 AVE NE	611 Dispatched and cancelled en route
175	05/07/2012	13:11	Viking BLVD	322 Motor vehicle accident with injuries
174	05/07/2012	10:56	18254 Greenbrook DR	321 EMS call, excluding vehicle accident with injury
173	05/06/2012	22:19	22892 Tippecanoe ST NE	321 EMS call, excluding vehicle accident with injury
172	05/06/2012	15:19	24355 NE Hwy 65 HWY	321 EMS call, excluding vehicle accident with injury
171	05/05/2012	16:23	23640 NE Davenport ST	321 EMS call, excluding vehicle accident with injury
170	05/04/2012	23:09	3841 Edmar LN NE	321 EMS call, excluding vehicle accident with injury
169	05/04/2012	11:01	4523 194th AVE NE	321 EMS call, excluding vehicle accident with injury

168	05/04/2012	00:25	20959 Taylor ST	321 EMS call, excluding vehicle accident with injury
167	05/02/2012	15:17	24355 65 HWY NE	321 EMS call, excluding vehicle accident with injury
166	05/02/2012	09:56	23126 Erskin ST NE	321 EMS call, excluding vehicle accident with injury
165	05/02/2012	09:36	3665 Viking BLVD NE	321 EMS call, excluding vehicle accident with injury
164	05/02/2012	06:23	24425 Durant STS	321 EMS call, excluding vehicle accident with injury
163	05/01/2012	17:45	2736 Klondike DR NE	321 EMS call, excluding vehicle accident with injury
<b>Total</b>				<b>52</b>



# City of East Bethel City Council Agenda Information

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**Date:**

June 20, 2012

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**Agenda Item Number:**

9.0 G.1

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**Agenda Item:**

Chapter 1, Section 1-2 definition change

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**Requested Action:**

Consider a definition change in the City Code, Chapter 1, Section 1-2.

\*\*\*\*\*

**Background Information:**

The current definition of “Highway” in City Code of Ordinances, Section 1-2- Definitions and rules of Construction, includes the term “public places.” “Public places” is a defined term which includes “cemetery, schoolyard or adjacent open space and any lake or stream.” Logically, this means that a “Highway is a public place; a public place is a cemetery, schoolyard or adjacent... OR a Highway is a cemetery, schoolyard or adjacent open space and any lake or stream.”

The term "highway" in this definition includes any street, alley, avenue, way or **public place or square**, bridge, viaduct, tunnel, underpass, overpass or causeway in the city dedicated or devoted to public use.

The term "public place" in this definition means any place subject to the primary control of any public agency, including but not limited to any park, highway, street, public way, **cemetery, schoolyard, or adjacent open space, and any lake or stream.**

In order to correct inconsistencies in the definition of terms it is recommended that the definition of the term "highway" that includes “public place or square” be changed to “public thoroughfare” to eliminate any misinterpretations or misapplications of the intent of the definitions.

NEW VERSION: Highway. The term "highway" includes any street, alley, avenue, way or public **thoroughfare**, bridge, viaduct, tunnel, underpass, overpass or causeway in the city dedicated or devoted to public use.

Additional changes to the definitions in this section will be included in a “housekeeping” amendment by the end of 2012.

Due to other issues that have arisen time did not permit the inclusion of redline and clean copies of the proposed change in this report. Those articles will be sent via e-mail on Monday, June 18, 2012.

**Attachment(s):**

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**Fiscal Impact:**

To be determined

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**Recommendation(s):**

Staff recommends changing the definition of Highway to {The term "highway" includes any street, alley, avenue, way or public **thoroughfare**, bridge, viaduct, tunnel, underpass, overpass or causeway in the city dedicated or devoted to public use} .

\*\*\*\*\*

**City Council Action**

Motion by:\_\_\_\_\_

Second by:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Vote Yes:\_\_\_\_\_

Vote No:\_\_\_\_\_

No Action Required:\_\_\_\_\_

**CITY OF EAST BETHEL  
ANOKA COUNTY, MINNESOTA**

**ORDINANCE NO. 39, SECOND SERIES**

**AN ORDINANCE AMENDING CHAPTER 1, GENERAL PROVISIONS,  
SECTION 1-2 DEFINITIONS AND RULES OF CONSTRUCTION OF THE  
EAST BETHEL CITY CODE**

The City Council of the City of East Bethel, Anoka County, Minnesota does hereby ordain as follows:

**Section 1-2. Definitions and rules of construction** of the Code of Ordinances of the City of East Bethel is hereby amended to delete and substitute the following:

*Highway.* The term "highway" includes any street, alley, avenue, way or public thoroughfare, bridge, viaduct, tunnel, underpass, overpass or causeway in the city dedicated or devoted to public use.

*Public place.* The term "public place" means any place subject to the primary control of any public agency, including but not limited to any park, highway, street, public way, cemetery, schoolyard, or adjacent open space, and any lake or stream.

Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted by the City Council of the City of East Bethel, Minnesota, this 20th day of June, 2012.

For the City:

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Richard Lawrence, Mayor

ATTEST:

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Jack Davis, City Administrator

Adopted: June 20, 2012  
Published: June 29, 2012  
Effective: June 29, 2012

**CITY OF EAST BETHEL  
ANOKA COUNTY, MINNESOTA**

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*Highway.* The term "highway" includes any street, alley, avenue, way or public ~~place or square~~ thoroughfare, bridge, viaduct, tunnel, underpass, overpass or causeway in the city dedicated or devoted to public use.

*Public place.* The term "public place" means any place subject to the primary control of any public agency, including but not limited to any park, highway, street, public way, cemetery, schoolyard, or adjacent open space, and any lake or stream.

Effective Date. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted by the City Council of the City of East Bethel, Minnesota, this 20th day of June, 2012.

For the City:

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Richard Lawrence, Mayor

ATTEST:

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Jack Davis, City Administrator

Adopted:	June 20, 2012
Published:	June 29, 2012
Effective:	June 29, 2012



# City of East Bethel City Council Agenda Information

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**Date:**

June 20, 2012

\*\*\*\*\*

**Agenda Item Number:**

9.0 G.2

\*\*\*\*\*

**Agenda Item:**

Building Inspection Services

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**Requested Action:**

Consider approving the contracting of temporary building inspection services

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**Background Information**

The City Building Official resigned effective June 7, 2012 and City Council appointed an interim Building Official until this position can be staffed with a full time employee. It is anticipated that this position will be filled between July 18 and August 1, 2012. State Statutes require that statutory Cities have a Building Official.

The City's Building Inspector notified the City Administrator that he will be out on medical leave for at least 30 days, beginning June 15, 2012. The interim Building Official will be available on a limited basis and the City will be without the necessary coverage in this Department for at least a month. Due to the volume of and the essential services provided by this Department, it is proposed that City Council authorize the contracting of part time inspection services on an as needed basis until this department has the necessary staffing to satisfy the demands for this service. This service would preferably be an individual with certification and experience but could be a private firm.

**Attachment(s):**

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**Fiscal Impact:**

To be determined. The cost for this service would not exceed the current cost (\$1,130 per week) for or extend beyond the duration of the Building Inspector's medical leave.

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**Recommendation(s):**

Staff recommends that City Council authorize the contracting of building inspection services to the best available source, as needed, during the period of the Building Inspector's absence or until the Building Official's position is filled.

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**City Council Action**

Motion by:\_\_\_\_\_

Second by:\_\_\_\_\_

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Vote Yes: \_\_\_\_\_

Vote No: \_\_\_\_\_

No Action Required: \_\_\_\_\_

## **Anoka County Sheriff's Office Report May 2012**

**Fatal Accident** –On May 7<sup>th</sup> at 1:10 p.m. there was a fatal accident in the 2200 block of Viking Blvd. A female who was traveling eastbound, veered onto the shoulder and struck a semi-truck which was stopped on the shoulder, out of the roadway. There was no indication of drugs or alcohol. The victim was airlifted to HCMC where she succumbed to her injuries.

**DWI Arrests:** There were 3 DWI arrests for the month of April. One DWI arrest was made as a result of a call to deputies regarding an intoxicated female driving with her 8 month old child in the vehicle. The vehicle was located and stopped. The female was intoxicated and the baby was released to the grandmother at the scene. Two other DWI's were the result of driving conduct.

**Burglaries:** Four of the burglary reports involved items being taken from pole barns, sheds or garages. One report involved items being taken from a house that was in foreclosure. One report was determined to be unfounded.

**Property Damage:** There were 5 reports of damage to property. One report involved a window well being spray painted. One report involved copper piping that had been taken from a sprinkler system. One report involved a light bulb being broken on the front of a house, however nothing suspicious was found in the vehicles parked in the driveway. One report involved a front door being damaged. The victim believes it was his son who did the damage.

**Thefts:** There were 28 theft reports taken during the month of May. 3 of the reports involved solar lights which were taken from yards. A bag of solar lights was located and owners were able to find some of their lights. There were two reports of thefts from cars at the Thielen boat access. Remember to not leave valuables in your vehicle and put valuables in your trunk prior to arriving at your destination. There were 2 reports of stolen power cords from RV's at a campground. There were two reports of thefts from boats on Coon Lake. One pontoon had a propeller stolen while docked and one pontoon had items taken out of it while docked. There were four reports made of financial transaction card fraud, where the victims were still in possession of their credit cards but the credit cards had been used for

purchases in other states, two of the reports were out of Wisconsin and one was out of California.

**Assaults:** There was an assault at a local bar where the victim fell to the ground and hit his head, becoming unconscious. Initially this assault was determined to be possibly a felony level, due to the injury, however the injuries did not rise to the felony level, and were determined to be misdemeanor level. The victim was taken to the hospital and released after tending to his injuries. The suspect was spoken to and advised he did not hit the victim, but had pushed him out of his way, at which time he fell to the ground. The case is still under investigation.



## **PUBLIC FORUM SIGN UP SHEET**

June 20, 2012

The East Bethel City Council welcomes residents and property owners to the Public Forum. The purpose of the forum is to provide residents and property owners an opportunity to respectfully inform the Council of issues they are concerned about.

The following guidelines apply to the Public Forum:

1. A resident/property owner may address the Council on any matter not on the agenda during the Public Forum portion of the agenda.
2. A person desiring to speak must sign up prior to the time the Council reaches the Forum on the agenda.
3. The Mayor will invite speakers up to the podium/microphone.
4. Once the Mayor has recognized the speaker, the speaker should state his/her name, address, and phone number.
5. Each speaker should attempt to limit their presentation to 3 minutes.
6. If a group of persons wish to address the Council regarding the same issue, the group should elect a spokesperson to present the group's issue to the Council.
7. The Council will listen to the issue but will not engage in dialogue or a Q & A session. If a majority of the Council would like to address the issue in more detail, it can be added to the agenda or can be addressed during the regular agenda of a future meeting.

<b>NAME</b>	<b>ADDRESS</b>	<b>PHONE NUMBER</b>	<b>TOPIC</b>

