

City of East Bethel

City Council Agenda

Regular Council Meeting – 7:30 p.m.

Date: February 15, 2012



Item

7:30 PM **1.0 Call to Order**

7:31 PM **2.0 Pledge of Allegiance**

7:32 PM **3.0 Adopt Agenda**

7:34 PM **4.0 Presentation**

Page 1-6 A. Springsted, Inc – Refunding 2005A GO Public Safety Bonds

7:50 PM **5.0 Reports**

Page 7 A. Sheriff's Report

Page 8 B. Introduction of Anoka County Deputies

Page 9 C. Introduction of East Bethel Fire Department Officers

8:00 PM **6.0 Public Forum**

8:20 PM **7.0 Consent Agenda**

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

Page 12-17 A. Approve Bills

Page 18-40 B. Meeting Minutes, February 1, 2012, Regular Meeting

C. Appointment of EDA Ad-Hoc Member

New Business

8.0 Commission, Association and Task Force Reports

A. EDA Commission

8:25 PM B. Planning Commission

Page 41-50 1. Meeting Minutes, January 24, 2012

Page 51-52 2. Motor Vehicle Sales - Ryan DiMuzio & Jordan Valder - 18803 Hwy 65

8:40 PM C. Park Commission

Page 53-60 1. Meeting Minutes, January 11, 2012

8:42 PM D. Road Commission

Page 61-67 1. Meeting Minutes, January 10, 2012

9.0 Department Reports

8:45 PM A. Community Development

Page 68-72 1. Gordon Hoppe, 1861 Viking Blvd, Variance Conditions Amendment

Page 73 2. 2011 Building Department Report

9:15 PM B. Engineer

Page 74-76 1. Pay Estimate #1 for the Construction of Elevated Storage Tank No. 1

C. Attorney

D. Finance

E. Public Works

F. Fire Department

- 9:20 PM
Page 77-84
Page 85-91
Page 92-95
Page 96-110
- G. City Administrator
1. Ordinance 34, Second Series, Amending Chapter 6, Alcohol Beverages
 2. Ordinance 35, Second Series, Amending Chapter 18, Article IV
Regulating the Sale of Tobacco
 3. Aggressive Hydraulics Time Extension
 4. S.R. Weidema Contract Extension

10.0 Other

- 9:45 PM
10:00 PM
10:05 PM Page 111
- A. Council Reports
B. Other
C. Closed Session – Project 1, Utility Improvements

10:30 PM **11.0 Adjourn**



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 4.0 A

Agenda Item:

Presentation – Springsted, Inc – Refunding 2005A GO Public Safety Bonds

Requested Action:

Springsted, Inc. – Refunding 2005A GO Public Safety Bonds, informational only

Background Information:

A representative from Springsted, Inc will be available to review the proposed refunding of the 2005A GO Public Safety Bond issue. This bond issue financed the construction of Fire Station No. 1 on Viking Blvd. and installation of weather warning sirens. Debt payments are supported by a direct property tax levy.

Attachment(s):

Refunding Feasibility Analysis from Paul Steinman, Springsted Inc.

Fiscal Impact:

As noted in the presentation

Recommendation(s):

Informational only

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

Refunding Feasibility Analysis For the City of East Bethel, Minnesota

From: Paul Steinman, Vice President

Dated: January 23, 2012

Introduction

As part of Springsted's ongoing services, we routinely identify opportunities and subsequent updates for public entities to refund outstanding bonds for interest cost savings. While other reasons exist to refund outstanding issues, our initial focus is on interest cost savings. We recently reviewed the following debt issue on your behalf and have summarized the issue's potential for interest cost savings in the current market. For the debt issue that offers the best opportunity for interest cost savings, we have provided more detailed financial summaries. We look forward to discussing this information with you, and possibly refining our analysis to ensure that any refunding is structured in your best long-term interest.

Summary of the Outstanding Issue Reviewed

Issue	Refunding Type	Est. Net Future Value	Present Value Benefit	PV Savings/PV of Refunded Debt Service
2005A GO Public Safety Bonds	Crossover	\$141,561.88	\$124,805.54	8.250%

Summary Information on the Potential Candidate Issue

(Shaded Issues Indicate Potential Refunding Candidates)

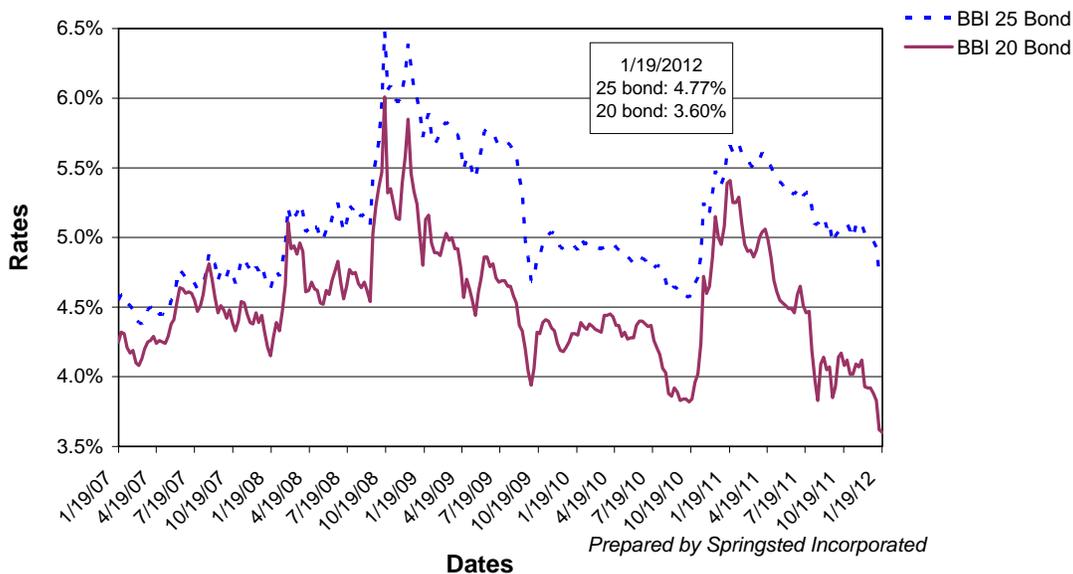
The table above indicates one issue with potential savings that merits further review. For this candidate, we have prepared a profile of significant financial statistics and estimates from the refunding feasibility analysis. This information should be viewed as preliminary and as a general indicator of the individual issue's refunding feasibility. We recommend additional discussion take place as to the decision to proceed with the refunding. In the concluding section to this analysis, "Next Steps", we have listed several topics which would facilitate the decision on the appropriateness of moving ahead at this time.

	Issue 1
Original Issue Size	\$1,900,000
Type	GO Public Safety
Refunded Issue	2005A
Refunding Issue	2012
Type of Refunding	Crossover
Refunded Issue Call Date and Terms	2/01/2014@100.000%
Net Future Value of Savings	\$141,561.88
Net Present Value of Savings	\$124,805.54
Net PV Savings to PV of Refunded Debt Service	8.250%
Average Rate on Refunded Bonds	4.117%
Average Rate on Refunding Bonds	1.692%

More detailed financial summaries are attached for each issue.

Current Municipal Market

BBI 25-bond (Revenue) and 20-bond (G.O.) Rates for 5 Years Ending 1/19/2012



Next Steps

Before a final decision is made on whether to proceed, we recommend you consider the unique characteristics of this issue and your additional borrowing plans this year. We will be in touch to schedule an opportunity to discuss the following considerations and determine the true viability of the refunding for interest cost savings as well as any other related potential objectives from debt restructuring.

Among an issue's particular characteristics, we recommend you consider the following:

- Review the current cash balance in the debt service fund and apply any build-up of excess funds to the refunding. This will help to establish a more accurate present value benefit of the refunding.
- Examine the current revenue stream(s) in order to better match the debt service of the new refunding issue to future revenue expectations. This may result in a refunding structure other than level savings or impact the term of the new refunding obligations.
- Consider if you are undertaking other tax-exempt financings in the current calendar year to determine if the refunding will affect your bank qualification status for all such issues. Obligations that are bank-qualified generally have slightly lower interest rates.
- Consider if the refunding can be sold in conjunction with other debt to save costs of issuance.
- Consider the impact of this refunding on existing bond covenants in anticipation of future user rate and/or financing objectives.
- Verify that the debt service reserve on the existing obligations was funded from bond proceeds. If so, excess debt service reserve funds not required for the new refunding will be used to reduce the principal amount of the refunding as shown.
- Discuss your desired minimum threshold for savings.

- Discuss the requirements provided in the current bond documents to determine if changes are desired as part of refunding and financial management strategy.
- Consider the interest rate at which the current debt service reserve fund is invested.
- Determine if the original issue or debt service fund has any arbitrage liability.

We appreciate your consideration of this analysis and the potential for your jurisdiction.

\$1,430,000

City of East Bethel, Minnesota
General Obligation Public Safety Refunding Bonds, Series 2012
Crossover Refunding of Series 2005A

Preliminary Feasibility Summary

Dated 04/01/2012 | Delivered 04/01/2012

Sources Of Funds

Par Amount of Bonds.....	\$1,430,000.00
Total Sources.....	\$1,430,000.00

Uses Of Funds

Deposit to Crossover Escrow Fund.....	1,379,480.62
Costs of Issuance.....	33,700.00
Total Underwriter's Discount (0.925%).....	13,227.50
Rounding Amount.....	3,591.88
Total Uses.....	\$1,430,000.00

ISSUES REFUNDED AND CALL INFORMATION

Prior Issue Call Price.....	100.000%
Prior Issue Call Date.....	2/01/2014

SAVINGS INFORMATION

Net Future Value Benefit.....	\$141,561.88
Net Present Value Benefit.....	\$124,805.54
Net PV Benefit / \$1,512,791.15 PV Refunded Debt Service.....	8.250%

BOND STATISTICS

Average Life.....	8.571 Years
Average Coupon.....	1.6917834%
Net Interest Cost (NIC).....	1.7997042%
True Interest Cost (TIC).....	1.7979396%

\$1,430,000

City of East Bethel, Minnesota
General Obligation Public Safety Refunding Bonds, Series 2012
Crossover Refunding of Series 2005A

Debt Service Comparison

Date	Total P+I	Escrow	Existing D/S	Net New D/S	Old Net D/S	Savings
02/01/2013	17,831.25	(17,831.25)	140,312.50	140,312.50	140,312.50	-
02/01/2014	21,397.50	(1,366,397.50)	1,487,512.50	142,512.50	142,512.50	-
02/01/2015	126,397.50	-	-	126,397.50	139,452.50	13,055.00
02/01/2016	130,715.00	-	-	130,715.00	141,307.50	10,592.50
02/01/2017	129,780.00	-	-	129,780.00	142,887.50	13,107.50
02/01/2018	133,735.00	-	-	133,735.00	144,230.00	10,495.00
02/01/2019	132,470.00	-	-	132,470.00	145,330.00	12,860.00
02/01/2020	131,032.50	-	-	131,032.50	141,182.50	10,150.00
02/01/2021	134,422.50	-	-	134,422.50	146,982.50	12,560.00
02/01/2022	137,562.50	-	-	137,562.50	147,325.00	9,762.50
02/01/2023	135,437.50	-	-	135,437.50	147,405.00	11,967.50
02/01/2024	138,125.00	-	-	138,125.00	147,217.50	9,092.50
02/01/2025	135,590.00	-	-	135,590.00	146,757.50	11,167.50
02/01/2026	132,860.00	-	-	132,860.00	146,020.00	13,160.00
Total	\$1,637,356.25	(1,384,228.75)	\$1,627,825.00	\$1,880,952.50	\$2,018,922.50	\$137,970.00

PV Analysis Summary (Net to Net)

Net FV Cashflow Savings.....	137,970.00
Gross PV Debt Service Savings.....	121,213.66
Net PV Cashflow Savings @ 1.680%(Bond Yield).....	121,213.66
Contingency or Rounding Amount.....	3,591.88
Net Future Value Benefit.....	\$141,561.88
Net Present Value Benefit.....	\$124,805.54
Net PV Benefit / \$351,355.89 PV Refunded Interest.....	35.521%
Net PV Benefit / \$1,512,791.15 PV Refunded Debt Service.....	8.250%
Net PV Benefit / \$1,345,000 Refunded Principal.....	9.279%
Net PV Benefit / \$1,430,000 Refunding Principal.....	8.728%

Refunding Bond Information

Refunding Dated Date.....	4/01/2012
Refunding Delivery Date.....	4/01/2012



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 5.0 A

Agenda Item:

Monthly Sheriff's Report

Requested Action:

Information Only

Background Information:

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

Fiscal Impact:

None

Recommendation(s):

Information Only

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required: X



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 5.0 B

Agenda Item:

Introduction of Anoka County Deputies

Requested Action:

Information Only

Background Information:

Lt. Orlando will introduce the Anoka County Deputies assigned to East Bethel for 2012.

Fiscal Impact:

None

Recommendation(s):

Information Only

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: X



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 5.0 C

Agenda Item:

Introduction of East Bethel Fire Department Officers

Requested Action:

Information Only

Background Information:

Fire Chief Mark DuCharme will introduce the East Bethel Fire Department Officers.

Fiscal Impact:

None

Recommendation(s):

Information Only

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: X



Payments for Council Approval February 15, 2012

2011 Bills to be Approved for Payment	\$83,242.41
2012 Bills to be Approved for Payment	\$89,311.54
Electronic Payroll Payments	\$22,456.83
Payroll City Staff - February 2, 2012	\$31,563.03
Total to be Approved for Payment	\$226,573.81

City of East Bethel
February 15, 2012
2011 Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
215-221st East 65 Service Rd	Architect/Engineering Fees	28910	Hakanson Anderson Assoc. Inc.	402	43125	102.50
Arena Operations	Bldg/Facility Repair Supplies	64415	Menards Cambridge	615	49851	75.22
Arena Operations	Telephone	120111	CenturyLink	615	49851	110.81
Building Inspection	Surcharge Remittance	13520003051	MN Dept Labor & Industry	101		764.32
Engineering	Architect/Engineering Fees	28913	Hakanson Anderson Assoc. Inc.	101	43110	1,863.78
Jackson MSA Street Project	Architect/Engineering Fees	28916	Hakanson Anderson Assoc. Inc.	402	40326	882.73
Park Maintenance	Equipment Parts	64235	Menards Cambridge	101	43201	25.63
Park Maintenance	General Operating Supplies	70773	Menards Cambridge	101	43201	64.05
Planning and Zoning	Architect/Engineering Fees	28914	Hakanson Anderson Assoc. Inc.	816		2,331.70
Sewer Construction Fund	Architect/Engineering Fees	143900	Bolton & Menk, Inc.	434		41,818.31
Sewer Operations	Bldg/Facility Repair Supplies	6961	Menards Cambridge	602	49451	272.71
Sewer Utility Capital Projects	Architect/Engineering Fees	143900	Bolton & Menk, Inc.	434	49455	26,736.29
Sewer Utility Capital Projects	Architect/Engineering Fees	28912	Hakanson Anderson Assoc. Inc.	434	49455	1,279.41
Street Maintenance	Bldg/Facility Repair Supplies	2182	Menards Cambridge	101	43220	5.33
Water Utility Capital Projects	Architect/Engineering Fees	28912	Hakanson Anderson Assoc. Inc.	433	49405	1,279.42
Water Utility Capital Projects	Architect/Engineering Fees	28917	Hakanson Anderson Assoc. Inc.	433	49405	5,521.89
Water Utility Operations	Telephone	120111	CenturyLink	601	49401	108.31
						\$83,242.41

City of East Bethel
February 15, 2012
2012 Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Arena Operations	Bldg/Facility Repair Supplies	9944	Menards Cambridge	615	49851	202.83
Arena Operations	Bldgs/Facilities Repair/Maint	2556	Steve's Heating & Service	615	49851	688.50
Arena Operations	Bldgs/Facilities Repair/Maint	2592	Steve's Heating & Service	615	49851	2,255.00
Arena Operations	Bldgs/Facilities Repair/Maint	12612	Wright-Hennepin Coop Electric	615	49851	21.32
Arena Operations	Concession for Resale	126562	Al's Coffee	615	49851	480.35
Arena Operations	Concession for Resale	158276132	Coca-Cola Refreshments	615	49851	720.00
Arena Operations	Concession for Resale	808678	The Watson Co, Inc.	615	49851	448.40
Arena Operations	Concession for Resale	808822	The Watson Co, Inc.	615	49851	110.04
Arena Operations	Electric Utilities	12012	Connexus Energy	615	49851	4,803.95
Arena Operations	Motor Fuels	1061390392	Ferrellgas	615	49851	240.09
Arena Operations	Professional Services Fees	42	Gibson's Management Company	615	49851	8,990.69
Arena Operations	Telephone	20112	CenturyLink	615	49851	111.40
Building Inspection	Auto/Misc Licensing Fees/Taxes	903638	DVS RENEWAL	101	42410	16.00
Building Inspection	Auto/Misc Licensing Fees/Taxes	929055	DVS RENEWAL	101	42410	16.00
Building Inspection	Conferences/Meetings	INV0087129	Int'l Code Council, Inc.	101	42410	140.00
Building Inspection	Conferences/Meetings	INV0087131	Int'l Code Council, Inc.	101	42410	140.00
Building Inspection	Motor Fuels	2006927	Lubricant Technologies, Inc.	101	42410	333.25
Building Inspection	Software Licensing	1015	PermitWorks, LLC	101	42410	1,515.56
Central Services/Supplies	Information Systems	215726	City of Roseville	101	48150	2,140.16
Central Services/Supplies	Information Systems	40940	Midcontinent Communications	101	48150	1,278.00
Central Services/Supplies	Office Equipment Rental	195657598	Loffler Companies, Inc.	101	48150	490.76
Central Services/Supplies	Office Supplies	593319292001	Office Depot	101	48150	30.64
Central Services/Supplies	Office Supplies	594456460001	Office Depot	101	48150	133.13
Central Services/Supplies	Office Supplies	594456518001	Office Depot	101	48150	22.28
Central Services/Supplies	Office Supplies	595445827001	Office Depot	101	48150	12.49
Central Services/Supplies	Office Supplies	595522422001	Office Depot	101	48150	20.30
Central Services/Supplies	Office Supplies	595806037001	Office Depot	101	48150	44.36
Central Services/Supplies	Telephone	12812	CenturyLink	101	48150	233.10
Economic Development Authority	Conferences/Meetings	100013131	Soderquist's Market	232	23200	55.97
Economic Development Authority	Office Supplies	595445752001	Office Depot	232	23200	36.83
Fire Department	Auto/Misc Licensing Fees/Taxes	144267	DVS RENEWAL	101	42210	16.00
Fire Department	Auto/Misc Licensing Fees/Taxes	903633	DVS RENEWAL	101	42210	16.00
Fire Department	Auto/Misc Licensing Fees/Taxes	903639	DVS RENEWAL	101	42210	16.00
Fire Department	Bldgs/Facilities Repair/Maint	12612	Wright-Hennepin Coop Electric	101	42210	5.32
Fire Department	Electric Utilities	12012	Connexus Energy	101	42210	721.64
Fire Department	Motor Fuels	2006927	Lubricant Technologies, Inc.	101	42210	530.15
Fire Department	Motor Fuels	2006928	Lubricant Technologies, Inc.	101	42210	499.14
Fire Department	Safety Supplies	80708857	Bound Tree Medical, LLC	101	42210	502.56
Fire Department	Telephone	12812	CenturyLink	101	42210	342.90
Fire Department	Telephone	20112	CenturyLink	101	42210	61.35
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	12469	Aker Doors, Inc.	101	41940	208.41
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	14801	GHP Enterprises, Inc.	101	41940	368.72
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	9866	Menards Cambridge	101	41940	218.88
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	119386	Robert B. Hill Company	101	41940	19.24
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	238732	S & S Industrial Supply	101	41940	44.82
General Govt Buildings/Plant	Electric Utilities	12012	Connexus Energy	101	41940	1,143.54
Legal	Legal Fees	40909	Eckberg, Lammers, Briggs,	101	41610	6,289.74
Mayor/City Council	Conferences/Meetings	13012	Heidi Moegerle	101	41110	28.60
Mayor/City Council	Travel Expenses	20712	Heidi Moegerle	101	41110	48.84
Park Maintenance	Auto/Misc Licensing Fees/Taxes	903637	DVS RENEWAL	101	43201	16.00
Park Maintenance	Clothing & Personal Equipment	470769350	Cintas Corporation #470	101	43201	48.03
Park Maintenance	Clothing & Personal Equipment	470772729	Cintas Corporation #470	101	43201	48.03

City of East Bethel
February 15, 2012
2012 Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Park Maintenance	Conferences/Meetings	20712	University of Minnesota	101	43201	175.00
Park Maintenance	Electric Utilities	12012	Connexus Energy	101	43201	169.12
Park Maintenance	Heating Fuels/Propane	103373	River Country Cooperative	101	43201	89.99
Park Maintenance	Motor Fuels	2006927	Lubricant Technologies, Inc.	101	43201	454.41
Park Maintenance	Motor Fuels	2006928	Lubricant Technologies, Inc.	101	43201	959.90
Park Maintenance	Other Equipment Rentals	51158	Jimmy's Johnnys, Inc.	101	43201	52.86
Park Maintenance	Sign/Striping Repair Materials	13077	Menards Cambridge	101	43201	170.97
Payroll	Insurance Premium	40940	Fort Dearborn Life Insurance	101		1,126.14
Payroll	Insurance Premium	40940	NCPERS Minnesota	101		128.00
Payroll	Union Dues	40940	MN Teamsters No. 320	101		593.35
Planning and Zoning	Escrow Reimbursement	12612	Mary Henrikson	932		566.24
Planning and Zoning	Professional Services Fees	442	Flat Rock Geographics, LLC	101	41910	880.88
Police	Professional Services Fees	32090	Gopher State One-Call	101	42110	4.35
Police	Professional Services Fees	40909	Gratitude Farms	101	42110	467.03
Recycling Operations	Electric Utilities	12012	Connexus Energy	226	43235	150.26
Recycling Operations	General Operating Supplies	503982	Ver-Tech Inc.	226	43235	863.61
Recycling Operations	Other Equipment Rentals	51158	Jimmy's Johnnys, Inc.	226	43235	52.87
Recycling Operations	Professional Services Fees	40940	Cedar East Bethel Lions	226	43235	1,000.00
Risk Management	Other Insurance	21917	League of MN Cities Ins Trust	101	48140	1,096.00
Sewer Operations	Bldgs/Facilities Repair/Maint	13112	Troy Slater Services	602	49451	200.00
Sewer Operations	Bldgs/Facilities Repair/Maint	12612	Wright-Hennepin Coop Electric	602	49451	24.53
Sewer Operations	Conferences/Meetings	20712	MN Pollution Control Agency	602	49451	300.00
Sewer Operations	Electric Utilities	12012	Connexus Energy	602	49451	823.25
Sewer Operations	Professional Services Fees	80129	Utility Consultants, Inc.	602	49451	546.25
Sewer Utility Capital Projects	Land	20612	Tim Landborg	434	49455	5,818.75
Street Maintenance	Auto/Misc Licensing Fees/Taxes	160516	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	160534	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	184448	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	199791	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	199793	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	4719CGT	DVS RENEWAL	101	43220	21.75
Street Maintenance	Auto/Misc Licensing Fees/Taxes	916530	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	921031	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	923067	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	935174	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	937486	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	937487	DVS RENEWAL	101	43220	16.00
Street Maintenance	Auto/Misc Licensing Fees/Taxes	13012	MN State Patrol, CMV Section	101	43220	30.00
Street Maintenance	Bldg/Facility Repair Supplies	9866	Menards Cambridge	101	43220	18.04
Street Maintenance	Bldgs/Facilities Repair/Maint	470769350	Cintas Corporation #470	101	43220	26.49
Street Maintenance	Bldgs/Facilities Repair/Maint	470772729	Cintas Corporation #470	101	43220	26.49
Street Maintenance	Bldgs/Facilities Repair/Maint	12612	Wright-Hennepin Coop Electric	101	43220	21.29
Street Maintenance	Clothing & Personal Equipment	470769350	Cintas Corporation #470	101	43220	47.45
Street Maintenance	Clothing & Personal Equipment	470772729	Cintas Corporation #470	101	43220	47.45
Street Maintenance	Conferences/Meetings	100027156	Soderquist's Market	101	43220	12.37
Street Maintenance	Dues and Subscriptions	2012	MSSA	101	43220	50.00
Street Maintenance	Electric Utilities	12012	Connexus Energy	101	43220	1,643.54
Street Maintenance	Equipment Parts	1539-124224	O'Reilly Auto Stores Inc.	101	43220	163.41
Street Maintenance	Equipment Parts	1539-124225	O'Reilly Auto Stores Inc.	101	43220	25.95
Street Maintenance	Equipment Parts	137092-IN	Zarnoth Brush Works, Inc.	101	43220	242.71
Street Maintenance	Lubricants and Additives	77105	Central Truck Service, Inc	101	43220	4.54
Street Maintenance	Lubricants and Additives	K0704482	D.B. Kopyy	101	43220	82.72

City of East Bethel
February 15, 2012
2012 Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Street Maintenance	Lubricants and Additives	2006290	Lubricant Technologies, Inc.	101	43220	60.30
Street Maintenance	Motor Fuels	2006927	Lubricant Technologies, Inc.	101	43220	196.91
Street Maintenance	Motor Fuels	2006928	Lubricant Technologies, Inc.	101	43220	2,380.57
Street Maintenance	Motor Vehicles Parts	C241131139:01	I State Truck Inc.	101	43220	118.38
Street Maintenance	Motor Vehicles Parts	1539-121338	O'Reilly Auto Stores Inc.	101	43220	123.08
Street Maintenance	Motor Vehicles Parts	1539-121724	O'Reilly Auto Stores Inc.	101	43220	73.71
Street Maintenance	Motor Vehicles Parts	1539-122385	O'Reilly Auto Stores Inc.	101	43220	64.10
Street Maintenance	Motor Vehicles Parts	1539-123767	O'Reilly Auto Stores Inc.	101	43220	69.14
Street Maintenance	Shop Supplies	75827	Menards - Forest Lake	101	43220	239.37
Street Maintenance	Small Tools and Minor Equip	9866	Menards Cambridge	101	43220	21.36
Street Maintenance	Small Tools and Minor Equip	238832	S & S Industrial Supply	101	43220	22.40
Street Maintenance	Street Maint Materials	70785852	North American Salt Co.	101	43220	7,534.12
Street Maintenance	Street Maint Materials	70790794	North American Salt Co.	101	43220	6,461.20
Street Maintenance	Street Maint Materials	70791599	North American Salt Co.	101	43220	4,262.79
Street Maintenance	Telephone	12812	CenturyLink	101	43220	68.22
Water Utility Capital Projects	Land	20612	Tim Landborg	433	49405	5,818.75
Water Utility Operations	Bldgs/Facilities Repair/Maint	12612	Wright-Hennepin Coop Electric	601	49401	26.67
Water Utility Operations	Electric Utilities	12012	Connexus Energy	601	49401	395.08
Water Utility Operations	Telephone	20112	CenturyLink	601	49401	108.62
	Easement	20612	Tim Landborg	434		4,987.50
						\$89,311.54

City of East Bethel

February 15, 2012

Payment Summary

	Electronic Payments	
	PERA	\$5,682.25
	Federal Withholding	\$5,214.01
	Medicare Withholding	\$1,387.94
	FICA Tax Withholding	\$4,977.56
	State Withholding	\$2,109.41
	MSRS	\$3,085.66
		\$22,456.83



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 7.0 A-C

Agenda Item:

Consent Agenda

Requested Action:

Consider approving Consent Agenda as presented

Background Information:

Item A

Bills/Claims

Item B

Meeting Minutes, February 1, 2012 Regular City Council

Meeting minutes from the February 1, 2012 Regular City Council Meeting are attached for your review and approval.

Item C

Appointment of EDA Ad-Hoc Member

The East Bethel Economic Development Authority at their February 11, 2012 meeting voted to recommend the Tom Larsen be appointed as an Ad Hoc member of the EDA for a term that would expire on January 31, 2014. The EDA is requesting that City Council approve this appointment.

Fiscal Impact:

As noted above.

Recommendation(s):

Recommend approval of the Consent Agenda as presented.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

EAST BETHEL CITY COUNCIL MEETING

February 1, 2012

The East Bethel City Council met on February 1, 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 February 1, 2012 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the February 1, 2012 City Council Agenda. Boyer seconded; all in favor, motion carries.**

Dale Voltin – Planning Commission Lawrence explained that Dale Voltin served on the Planning Commission in 2011 and Council would like to present him with a plaque and acknowledge his service. He said we thank you very much for the time that you have dedicated to the City, because he knows this takes a lot of work and a lot of time out of your day to do this. Voltin thanked the Council for the opportunity of serving. He said he enjoyed every meeting. He said you have an excellent commission and excellent staff.

Dan Butler – Park Commission Lawrence explained that Dan Butler served on the Park Commission from 2009 to 2011. He said he appreciates all the work Butler has done. He knows that Dan has gone above and beyond on some of the things we have asked you to do. Butler said “Mayor it was a pleasure working with you as our liaison the last year. Also working with Jack Davis before his current position as the public works manager.” Butler said “Thank you both.”

Dan Kretchmar – Park Commission Lawrence explained that Dan Kretchmar served on the Park Commission from 2009 to 2011 and Council thanks him for his service. Davis said Mr. Kretchmar could not make it here tonight, but we will make sure that his plaque is delivered to him.

Introduction of Fire Fighters Fire Chief Mark DuCharme said he would like to introduce some of our newest fire fighters. He said the first couple are fire fighters that have completed all their probationary requirements. Chief DuCharme said and the second group that you will get to meet is the new ones that have been approved to be probationary fire fighters. Plus, there are a couple on tonight’s agenda for approval.

Fire Fighters introduced themselves as follows: Wade Hoffman off probationary. He has been a resident of East Bethel for 5 years and he is proud to serve the City. Ryan Henry has been a resident going on 6 years and he is proud to serve the City. Hoffman said he would also like to speak for four members that are not present; Kalli Haapoja, Bill Folwarlski, Chad Fish and Stephanie Kirkham. Hoffman knows they all enjoy living working in the City and are proud to serve the City as well.

Chief DuCharme said the next group is our newest members. He said the one that is missing is Mike Howe; he is working tonight. Chief DuCharme said Howe actually works with the Sheriff’s Department. Andrew Dotseth said he has lived in East Bethel for a little over 2

years and “Thank you for the opportunity.” Brody Rodenaugh said he has lived in East Bethel for 8 years now and “Thank you for the opportunity.” Abby Vados said she has lived here for nearly all her life and “Thank you for the opportunity by becoming a probationary fire fighter.” Joshua Sturman said he has been here since 1983; he appreciates the opportunity to do something positive in the community. He said he lives on Coon Lake.

Interview
EDA
Candidates

Davis explained that the term for one EDA Ad-Hoc Member, Tom Larson, expired on January 31, 2012. This was promoted to a full time member.

To fill this vacancy, we advertised on the City’s website, on our community bulletin board and on Channel 10. The City received applications from Dan Butler and Greg Hunter in response to our ads. We have included copies of the applications as part of your agenda materials.

Staff is recommending Council interview the two candidates for the EDA vacancy. Greg Hunter could not be here tonight. Davis said at this time he would like to ask Dan Butler to come up for his interview.

Dan Butler said just a couple things; there is a change on his application. In the interest of saving paper and the Reduction of Paperwork Act, as of 2012, initiated by him on behalf of the City of East Bethel, he is no longer on the Park Commission. He said he moved to East Bethel in 1997, and has been a resident for 14 years. Butler said he has been an active member in the community, serving on the Ham Lake Area Chamber of Commerce as president for 2 years, and is currently the vice-president of that Chamber. He said he has a little bit of a different vision on the Chamber of Commerce and how that interacts with communities and he is pushing a less parochial approach for Chamber and to broaden its scope with neighboring communities. Butler said he also recently just gave up his position as a board member of the Beaverbrook Sportsmen Club. He said he is still an active member of the Club, but no longer on the Board of Directors.

Butler said he really thinks that the EDA is a great opportunity for him to lend his talents to the Council and the City - in terms of his 35 years in business and some of the challenges he has seen in the economy. He said he has worked with major corporations like Kohl’s Department Stores, Macy’s, before that Dayton Hudson, Marshall Fields, etc. and met with a lot of top people in his previous business experiences. Butler said in 2002 he went off and started his own business. One reason was the economy; he was pushed out in terms of downsizing. Retailing was getting smaller and smaller. He said being downsized was one of the challenges he had in 2002 and he started his own business. Butler said he now offices over off of 186th and Ulysses and he also has an office in Apple Valley that his son works in.

Butler said in terms of why he wants to serve on the EDA, he thinks it is important for people in the community to become active, whether serving on City Council, a commission or whatever. He thinks some of the experience and talent he has would lend itself well to being on the EDA.

DeRoche asked Butler what he thought of the meeting this morning. Butler said he wasn’t involved in the meeting this morning. Moegerle explained that it was the Ady Voltedge Marketing and Branding Stakeholders Kick-Off meeting. Butler said he wasn’t at the meeting. He read through some of the proposals and he has been following the minutes of the EDA. Butler said he does have a degree in marketing and that also might lend itself well in terms of background. Moegerle said one of the things that are important to her is

“participation and attendance”. We have a retreat scheduled for Saturday, February 11th from 9:00 am to about noon. She asked Butler if he would be able to attend. Butler said he knows that he has some prior commitments on that date. He has the Ham Lake Snow Bowl on that day (if that gets pulled off because of lack of snow) he plans on participating in the ice fishing contest, but if he needs to scratch that he could.

Moegerle said you have a very impressive resume and a history of participation in a positive manner with the City. That speaks very well for you. Lawrence said he knows you from before, so he knows what kind of person you are and what kind of work he can expect out of you on the EDA. Butler said he doesn’t tend to over-promise, but he tends to over-deliver. Moegerle said and you have given us examples of that.

Council voted by ballot. Butler received the majority of votes by ballot.

Appoint EDA Member **Voss made a motion to appoint Dan Butler to the Economic Development Authority (EDA) for a term from February 1, 2012 to January 31, 2012. Moegerle seconded; all in favor, motion carries.**

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

Tom Seefeld of 18822 5th Street NE said he is here to talk about Gordon Hoppe. “We have had several meetings about this. We want to know where it is going and how it is going to stop or make it better for the neighborhood.” Seefeld said, “You guys gave him an easement or whatever at the last meeting and nothing has been done over there. They gave us their words that they were going to be out of there. These last two weeks it has been really quiet. There were things said in the meeting about the trucks coming and leaving at a certain time. We had it logged. We just want to know where you are going with this and if it can be stopped.” Seefeld said it is a residential area and he personally doesn’t feel he should be here again with this complaint. “We went through this in 2004,” he said, “we came to the other meeting,” and he wants to know; “where it is going?”

DeRoche asked “Up until two weeks ago, was it pretty steady after that last meeting where you guys came in?” Seefeld said yes. DeRoche said, “It was a variance so Hoppe could do his shop over on 22.” Seefeld said yes and you gave him the variance. DeRoche asked “And are you saying after that he just kept on and on? Is that what you are saying?” Seefeld said “Nothing has been done.” Boyer asked “Do we have a time on the variance?” Seefeld said he thinks March. Moegerle said “It is May.” Seefeld said “If the weather was really nice”. He said you can’t talk about better weather than this.

Lawrence asked Davis, “Where we are on this?” He said he knows that Davis has talked to Mr. Hoppe several times. Davis said he has talked to Hoppe and the residents. He said he told them this would be brought before Council and they would give staff direction on how to proceed on this matter. Davis said he thinks there is another resident that would like to speak on behalf of the 189th neighborhood. He said “And Mr. Hoppe is also in the audience too. If we can hear from the rest of the residents then we can go over some of the issues that are involved here.”

Moegerle asked Seefeld if he has photographs of these vehicles or a tape recording of the noise. Seefeld said no, he doesn’t have either of those. His place is on 5th Street and 189th. He owns the corner. Seefeld said when he hears the trucks leave in the morning (especially in the winter, when it is cooler the sound effects are different) he hears it going through the front of

his house and he looks out and can count the trucks. Then, when he hears them coming in off of University, he looks out his north window and he counts who is coming in. He said he is getting a double whammy from the trucks. Moegerle asked, "But you haven't had this trouble in the last two weeks?" Seefeld said, "There has just been one truck. It was a little truck that was brought in and never left. [He has] logged dates and times the trucks come in, what they were hauling, bobcats, backhoes, empty trailers. Some of them, they go out and then come back at 11:00 a.m. or noon and then 10 minutes later they are going back out empty. And it is the same trucks." He has it logged because he said he was going to do it. Seefeld said he knows there are pictures, other neighbors have them. Moegerle asked, "Does Mr. Davis have a copy of the log?" Seefeld said no, but he can give one to him. Moegerle said "That would be helpful."

Linda Larsen of 18727 5th Street NE said "Everyone keeps talking about how this came up previously so [she] has copies of minutes for you." Moegerle asked, "And these are from 2004?" Larsen said yes, they are from 2004. Right before [she and her husband] moved into the neighborhood. She said and then she has another bit of information that might be useful. Larsen said, "We work, we have hobbies, we are out of town so we can't log every time something comes in and out of the neighborhood." But she has a few pictures of the kind of machinery that comes in and out. And she has some logs.

Larsen said "The first handout shows the Hoppe property and where [her] property is. His big shed where most of the machinery is coming in and out is directly behind my house." She said so she thinks they get the brunt of it. Larsen said her husband works second shift and he gets woken up every morning around 7:00 a.m. Not always exactly that time. She said "So he hasn't had a full 8 hours sleep in about 9 months." Larsen said the next handout is the people on 189th, Jackson and 5th Streets who are not happy with the situation.

Larsen said she has been looking at City code, and she sees that (she knows they say they are not running a business out of their address, they don't use this address on their letterhead) they are pulling machinery in and out almost daily. "Sure there is a week here and there where it is lighter or they are on vacation, but overall every month since April there has been activity. There has been large machinery going in and out of this residence, disturbing us neighbors." Larsen said she has been reading some of the home occupation stuff and it says: "No traffic shall be generated by the home occupation." She said, "Well that has happened. It says: The home occupation shall not constitute, create or increase a nuisance to the criteria and standards..." Larsen said, "It is definitely creating a nuisance. It says: There shall be no outdoor display of goods or equipment." She said, "Of course he puts it away at night, but that is not what matters to us - that it is covered and in the shed at night - [it's] the wear and tear on the roads, the traffic, the noise. It says: There should be no detriments to the residential character of neighborhood." Larsen said, "We feel that it is [a detriment]." She said on this other ordinance it talks about structures, she is not sure how many square feet his sheds are. Larsen said there is one area where it says: 'Buildings greater than 3,000 should not be used for commercial or industrial activities.' She said, "And then it says the same for buildings greater than 1,000 square feet. This all sounds to [her] like it is not zoned for this type of activity."

Larsen said, "And the last thing is we are all zoned Rural Residential (RR) in this area. And for RR it says it is supposed to 'promote the rural character and provide an environment of peace and tranquility for district residents.' That is why most of us moved out to East Bethel is to get away from the hustle and bustle of the city. Not to have to be exposed to this busy stuff going on everyday." She said she is starting to notice with the warm weather new cracks in the roads. "Which we, as residents, pay for those. We don't really need the big trucks

going in and out ruining our roads.” Larsen said she really feels, like what Seefeld was saying, “With the warm weather this fall, why hasn’t anything started on this other building that they were supposed to be moving their business to? Very disappointed that it has taken this long, that you have to get us all riled up and in here.”

Moegerle asked Larsen if she has noticed, in the last two weeks, that there has been abatement of noise, like Mr. Seefeld noticed. Larsen said, “Towards the end of January we were told he was out of town and it was very quiet that week,” but Monday, she was leaving for work around 7:00 a.m. and she saw a big truck leave the property. Moegerle asked, “Did you see it or hear it?” Larsen said she saw it and heard it. Lawrence said, “Right now we are working with Mr. Hoppe to find out what is going on with his other place,” and “to, hopefully, get this move going on so he is out of the neighborhood.” Larsen said she hasn’t seen his other property personally, but she hears it hardly looks big enough to even have the room to store all this large equipment. She assumes you know what you were doing when you passed that variance for him.

Voss asked Davis to briefly summarize the current status of Mr. Hoppe’s property. Davis said on October 5th Council passed a variance allowing Mr. Hoppe to build two additions to his buildings at his Viking Boulevard location for the purpose of him totally transferring his all of his business operation and consolidating at this one address. One of the conditions that were granted as part of the variance was to allow him to store his equipment at his 604 189th Street residence until he completed these two additions. Davis explained that when his wife presented this to City Council, it was indicated that [Mr. Hoppe] should be in the building by maybe this fall, weather permitting, and there was a date of mid-May mentioned in the approval and motion for the variance to be in the building at Viking Boulevard. Voss said, “So the variance is pertaining to the property on Viking Boulevard, but the discussion was of the residential property?” Davis said that is correct.

DeRoche said he thought it was understood that the trucks were not going to be going in and out. That was a pretty large discussion, and he remembers the people standing up here talking about it, and it was going to be storage only. He said, “And they weren’t going to be coming up and down the street, he wasn’t going to be operating his business out of here.” DeRoche said he remembers “... [Mr. Hoppe’s] wife standing up here saying the exact same as Davis. Saying we are going to get going on it, and that is why we granted the variance.” He said to his knowledge there haven’t been any permits pulled or anything. DeRoche said he personally went through this in his neighborhood when his neighbors built at the end of the road, and it is pretty obnoxious. Voss asked, “Is there a CUP on the home business on 189th?” Davis said “No, there is not. There was an IUP granted in 2004 for one year.”

Gordon Hoppe of 604 189th Street NE said, “It is amazing how she [Larsen] has seen a truck because [his] guys have been out of town for three weeks. The month of December they have been out of town.” He told Davis he would give him hotel receipts. “All this noise they hear? There are three other businesses operating in our neighborhood. One of them has a semi that arrives three times a week. Next time her husband follows one of my trucks he will have the cops called, because he followed him clear to St. Louis Park.” Moegerle asked “What other businesses are in this neighborhood, that are contributing to this problem?” Hoppe said he doesn’t really want to say. “You can look them up. One has an IUP and the others do not.” He said there are other vehicles in this neighborhood also. Hoppe said he drives three diesel trucks and the guys never start before 7:00 a.m. He did that out of the kindness for the neighborhood. Moegerle said “And our noise ordinance requires that.” Hoppe said yes. He said he has been out of the neighborhood for three weeks, and for the whole month of December they worked out of town. They left Monday morning and came home Friday, he

has hotel receipts.

Voss asked what is going to happen between now and May. Hoppe said he will probably start on the building, but he was informed he had until May to get it done. That is what the paperwork says. Voss said "That is one issue, but in terms of what you are doing on your property on 189th." Hoppe said there will be trucks and equipment kept at his property for his life, because he uses them at home. Voss said "You said 'kept', you mean inside?" Hoppe said "They have never sat outside at night." Voss asked "But they are going to stay inside the building?" Hoppe said he took one out on Saturday because he had a diesel gel up. So he took one out of heated storage and put it into cold storage. Voss asked "But you are not going to job sites?" Hoppe said no. He said this is going to be his retirement home, so a couple of them will, for personal use; it will be his private carrier, not for hire. Voss asked "So for personal use that is the only expectation the City can have on going forward?" Hoppe said he has been informing Davis of this, he has talked to him on a regular basis. Hoppe said "But some of the neighbors should figure it out because the semi that leaves [his] business can't actually make the right hand turn out. So he has to make a left hand turn out and turn around in my cul-de-sac [the City's cul-de-sac] at the end of the street to leave. Two of the neighbors that are sitting here ran businesses out of their homes without IUPs or CUPs because they did work at my home." Lawrence said, "One of the issues is that your wife said weather permitting that you would have it done." Hoppe said he has been working out of town. There hasn't been any work here, so he has been working out of town. Lawrence said, "But she said weather permitting you would have it done this fall." Hoppe said he hasn't had time. Lawrence said he understands that.

Tom Eich said he owns some property south of Hoppe's. He said his daughter and son live there; three pieces of property. Eich said, "Most of [the] problem is with Hoppe's attitude; what you saw there, this is what he does. He doesn't go to be nice to a neighbor or respect them. They will jake break the truck, speed, make noise, blow off firecrackers, more than the City of Blaine does." Eich said, "This is zoned residential, not commercial. Until that is changed, he shouldn't be able to run a business there." He couldn't go to 65 and 22 and build a house. And if it was a small one man operation, fine. But you are talking about a big business; trucks coming in and out.

Ann Dalagher of 418 189th Street NE said she has nothing against Mr. and Mrs. Hoppe, they are probably fine people. "It is just what they are doing here. Your ordinances say it is wrong. Your City Administrator agreed with us that it is wrong. And here we are again." Dalagher said, "And now you have people that are ready to duke it out. Well, what do you expect? This is what you get when you keep coddling a situation."

DeRoche said, "But the group that is up here was not here in 2004, so we haven't been dealing with this issue since 2004. The first we heard about it was when he came here for variance and then people came in and spoke out. And that is why we gave him the variance to build the other building." DeRoche said he understands the frustration. Dalagher said, "Yes. And we have been in to see Jack. We have had good conversations and then everything turns around. Point is: what do we do?"

Moegerle asked, "When is the noise? Our ordinance says from 7:00 a.m. to 10:00 p.m. it isn't as strict. Are you talking about that time of day?" Dalagher said, "In the morning they go and a lot of time in the middle of the day they come back. Davis asked people to do logs and take pictures and that doesn't feel right either, quite frankly." Moegerle said, "But you have to do that." Dalagher said "It happens throughout the day, quite frankly. It is a safety issue also, that is not a freeway, it is a cul-de-sac. Some kid is going to dart out of a driveway and get

plastered by one of those trucks and then what? And it feels like, even tonight, Gordy's tone is like a bully, trying to bully the neighborhood; bully the Council. Just because he is big and strong and he's got a business. Dalagher said, "Well we got that same guy that is about 10 years old in our school pushing people around and we can't even get that under control." She said, "If we can't even control this type of action and attitude as adults how do we ever hope to get our arms around bullying?"

DeRoche said everything has to happen in a certain order, because everyone in this country has rights. And if we were to go in there and just shut him down, how many lawsuits do you think we would come out with? Dalagher said she doesn't think you would have any, because, obviously, you have given him forever to get this done. She said there are other attorneys. DeRoche said he understands that. But we, as a group, haven't been dealing with this forever. Dalagher said, "We have given you information to take this seriously so that something actually does get resolved once and for all." Voss said your statements tonight and the other statements are what he considers the beginning to another step in this. 2004 there was an Interim Use Permit issued for one year. He said the meeting last fall, which he is sorry he wasn't at, which was for actually something different. Voss said and this became part of it, so it wasn't official, but we took notice. And now we are here again tonight. He said he appreciates your frustration; it is not that Council is stonewalling; this is going to be another step in the process.

Dalagher said she will leave you with another fun thought. "Say you lived at the back of that property and you have people that backed up to that property before he [Hoppe] ever came. Their property has dropped 50/60% in the last of couple years. Do you think they could even sell their property with that there?"

Moegerle asked the City Attorney to help [Council] with the issue of enforcement of the Noise Ordinance. "Because noise seems to be the primary concern and how difficult is [the order] to enforce? [She] had asked Davis to get some patrols along there to document and so far we haven't. What is involved with this for the city?" Vierling said "It is like any other ordinance-based violation. If the city receives written notice from residents or neighbors that there is a violation of the ordinance, or we have our police officers that observe it, we can tag those and go forward based upon those terms and whether or not a misdemeanor violation has occurred. Everything we do is based upon a complaint from a citizen or a report from one of our police officers."

Hoppe said "And you guys that say you didn't know about this?" The day he sold his building he came in to the Council at a meeting and said he would be moving his stuff to his home and would be buying a building. He said that he would be buying in East Bethel or trying to build in East Bethel. Hoppe said it took him six months (he applied in April) to get a building permit for his cabinet shop. DeRoche said he remembers a conversation last October and you were frustrated about the sewer and water project because you were going to have X amount of ERUs with your building and that you were going to move out of that area. Hoppe said he came in (and you can look it up in the minutes in April) and said he sold his building and he was going to be moving his equipment to his home and would be looking to either buy or build in East Bethel. And he asked to put an addition on the cabinet shop at that time, but was told it didn't meet the zoning because the past council zoned it residential. Moegerle said "That is why we did that Comprehensive Plan Amendment. We are putting you back to commercial." Hoppe said "It took me 6 months and \$1,500 to get to a variance at that point. [He] can't store anything at the cabinet shop because Ordinance 137B says 'No outside storage.' Moegerle asked "Is there a possibility for outside storage?" Hoppe said he doesn't store his stuff outside anyways, but for them to say he is bullying, he has been upfront with

you people from day one.

Tom Ronning of 20941 Taylor Street NE said he wanted to ask questions about the sewer and water. He has been following this project for roughly 6 years. He said he thinks we are about eleven months into the project and there should be some answers to some of these questions now. Ronning said personally he has spoke in opposition to this project and has watched numerous others speak in opposition as well. "During this time we have asked about our obligations to this project and what is it going to cost us. About September 2009 we kept getting the answer: Don't worry. Don't worry. Don't worry." He said so he could see something coming. So he asked, "What is the most it will cost us if we do not connect?" Ronning said he got some surprised looks and was told it wouldn't cost us anything. Mayor Hunter was consistent in his answers with at least dozens of us and told us, "If you don't want it, you won't get it and if you don't connect you will have no cost." It is his [Ronning's] recollection that there was a citizen in here one night that asked about the obligation of the council to get approval from the taxpayers and believes the Mayor asked the attorney at the time; "What is the answer?" [The Attorney] said, "The council can do anything it wants."

Ronning said, "Mayor Hunter assured me and numerous others many times that this would not cost us anything if we didn't want it. But when you look at the bond issue, these are general obligation bonds. And most people don't understand this: if there is a monetary default that goes on us. I am going to pay. You are going to pay. Everybody out there is going to pay. Anybody out there is going to pay it." Ronning said, "In [his] opinion, this is beyond misrepresentation. They have been willfully and deliberately lied to for years now. At the time this was started we had about a 3.5 million of bond issue that we owed and then we took on 18 million or so dollars in addition to that. The lame duck session, in November/December 2010 hurried this bond issue through and hurried the contract assignments. Rush. Rush. Rush. And forget what anybody else thinks or wants. Forget that we all voted against three members. Mayor Greg Hunter, Council Members Kathy Paavola, Steve Voss, Bill Boyer and Steve Channer ran this through unanimously. Regardless of what any of us said."

Ronning said he has some questions too, please. "What is the city tax revenue for 2011 and what is budgeted for 2012?" (Ronning said he doesn't know if he will get answers to these as we go or what.) "What have we paid to date for construction and is anything completing ahead of schedule or on schedule? What are the foreseeable payment obligations for the next 3-5 and beyond years?" Lawrence said, "Unfortunately most of these questions you are asking will only be forecasted. We can't give you an actual answer. It is just an outlook. We don't know." Ronning said, "That is understandable." Davis said, "As far as tax revenues go, we are looking at 1.7 million. Revenues for 2012 are approximately \$176,000 less than for 2011. Construction costs to date (he has a very, very rough figure.)" Jochum said, "It is \$5,768,869 approximately." Davis said as far as the construction schedule, approximately 53% of the pipe has been laid and the project may be a little behind schedule but he will reserve comment on that.

Ronning asked, "What will we owe to repay bonds in the next 3-5 years and beyond?" Davis said, "We know what the payments are; we don't know what the revenues are. The bond payment we have scheduled for this year is \$798,904, for 2013, 2014 and 2015 it is \$708,388. In 2016, the payment is \$1,493,388 and the reason that jumps up is there is a Schedule C bond that half is due in 2016 and half is due in 2017. But these bonds can be refinanced." Moegerle said, "At an additional cost to us. Is that correct?" Davis said, "Yes, at an additional cost to us to refinance it."

Ronning asked, "What are our commitments to the Met Council with this?" He said he hasn't heard or seen anything about this since this started. Davis said, "They have a schedule set up that requires us to generate X number of SAC or ERU connections per year. [He thinks] the first year is 100 and then [he thinks] it goes up correspondingly 10% each year. Up through the 20 year plan of the bond payout." Lawrence said, "We have a complete plan of that and can get that to you." Ronning asked, "What are our plans to meet the obligation?" Davis said, "Our plans are to be extremely attractive to development. We have done several things to put the mechanisms in place to make [East Bethel] more attractive for businesses. We are currently working with one prospect and hope to have some type of announcement in the next 4 to 6 weeks. We are using every means we have to get as many hook-ups as possible." Ronning said he doesn't doubt that you are and he hopes that you are successful and he is sure that every one that is watching this also hopes you are successful.

Ronning said, "Maintenance and manpower. Is there an estimate of maintenance and manpower needed? Davis said, "Maintenance on the system, initially, will be minimal since there will be very few customers. That is something we will have to wait and see. We will have to project. That will be part of the rate schedule we try to develop. Here again, you have to have X number of customers and X number of dollars to meet the maintenance and operation." Ronning asked, "If you have two customers compared to if you had 100 customers, does one get 50% and the other get 50%?" Davis said, "It doesn't work that way. This just puts more pressure on the City to get more customers for a bigger base to spread those costs over a larger number of customers." Ronning asked, "What is the anticipated break even or positive cash flow of this system? In the best case scenario?" Davis said, "That we would have to look up because there are so many scenarios with so many different projections and they are all based on the number of connections per year." Ronning asked, "Just as an opinion, do you think we have a glimmer of hope?" Davis said yes, he does or he wouldn't be sitting up here.

Ronning asked, "What is the interest obligation on the bonds? What are we paying when they are due?" Davis said he would have to check and see what rates we are paying on those. He said, "They are at a very attractive interest rate, plus there is also a federal credit on two of them that allows us to get a lower payback on them." Davis said he would have to check them to see what the rate is current. Ronning said, "Thank you for your time and input and answers."

Joshua Sturman of 226 Elm Road said he wanted to keep you in the loop regarding a proposal he was putting together for the Coon Lake Improvement Association (CLIA). "There is a DNR grant program where they offer matching funds for a public awareness program. You put out information and CLIA has approved matching funds up to the maximum of the DNR grant which is \$7,500. This wouldn't be an immediate budget concern of the City. He recently spoke with Kathy Paavola, President of the Coon Lake Community & Senior Center. She was in support of it; also the owners of the Coon Lake Market as a bait shop. [This] was one of the DNR requirements; that you talk with your bait shops to get the information out.

Sturman said, "The biggest concern is to prevent the intervention of zebra mussels which have kind of taken over Lake Minnetonka. And the amount of traffic that we get into Coon Lake (just from around the general metropolitan area), once they get in, there is no way of getting them out. This is a way to put some real solid boots on the ground helping people to know what to look for and to actually inspect them. As part of this grant funding to work (they have two different pay scales) [the work would be done] for \$12 an hour and CLIA was okay with paying that.

Sturman said he is looking for Council to address the enforceability of some of these inspection regulations. "What we would actually be able to do if people are violating them? If they are just dumping in the lake without passing through the wash areas? Just something simple that says: This is a City Ordinance. So we can get on the radio and the sheriff's or the DNR and tell them; 'We have people that are not complying.' Otherwise, this would be a voluntary process." DeRoche said he has been trying to do this for 30 years because he lives on Coon Lake. What he was told was because in the old days someone would inspect trailers and vehicles when they came in and out. He said for some reason they did away with that program. Then when the CLIA started charging all the homeowners \$300 a lot we asked "Why don't you put people out there then?" and they said, "Because it is a county park they can't." DeRoche said he doesn't quite understand that, if the lake is in jeopardy, because of Milfoil and Curly Leaf. He said, "And you are right, the zebra mussels are pretty much dominating everything," but as a City he doesn't think we can do that. He thinks it has to be a DNR thing. Somebody can probably call the recreational deputy and say, 'We are having some violations,' and write down the license number.

Sturman said, "You are pretty much right. As far as the CLID, they pretty much have the same authority as the City or state. They are a taxing authority. The accesses, [he] believes the one on the north side is owned by the state. The one on the east side is part of the county park and the other little accesses around the lake are not really regulated by anybody. That would be where the Coon Lake Community & Senior Center would come in. This is a program that is in cooperation with the DNR, which would contribute to the north side one, and, as a political subdivision, Coon Lake Improvement District (CLID) in collaboration with the county would do a monitoring program. It is just a matter of getting everyone together and who is going to fund it." DeRoche said he was also told they were going to limit the bass tournaments out there. He has gone over there and not been able to launch his own boat because of the parking over there. He said he has taken pictures of milfoil on people's trailers and no one did anything about it.

Voss said maybe something you want to look into is the DNR is starting monitoring on certain lakes. There is obviously cost associated with it, would be helpful to know the costs. Sturman said, "There are two different programs. One is just public awareness and the other is where you have to be certified." Moegerle asked if he could get the application and more information. "Then we would be able to address this in a more informed way. And, maybe, process it through our attorney, so we could have a more informed opinion for you on what we want to do to go forward." Sturman said he was just in the process of filling it out. CLIA wanted him to turn it in to them yesterday so they could review it before he submitted it to the DNR. He said there is just an area on there that indicates cooperating organizations so he listed CLID, SRWMO, and he was throwing this out there to see if he could put the City of East Bethel on there. Voss said as our largest natural resource in the City he would think the City would be supportive of doing what we can. Moegerle said, "Certainly in general. It is the financials we would have to look at in more details before we make a commitment. But absolutely." Voss said for the City as well, there is in kind contribution. DeRoche said there are monitor tubes out there. About 25 of them.

Ronning asked, "Along Hwy. 65 is S.R. Weidema doing the digging?" Lawrence said yes. Ronning said, "They seem to have taken a month or so off, everything is parked over there. Are we on schedule?" Voss said, "They are working today." Ronning said, "They were working Monday morning. They had all the lights on, trying to catch something up. Have you been informed yet that there is a dip at the north digging point and do they have a fix for that?" Davis said, "We were informed of that. It is a MnDOT issue. They will have to take that up with them. They will be responsible for it." Ronning said, "As much as my grumbling

sounds like grumbling, we are all in the same damn boat. And if this thing sinks, it is going to cost us a fortune. [He] thought it was irresponsible when it was done, and [he] hopes it doesn't cost us what he is afraid it will." Voss asked the dip on 65, is that where the jacking point was or is that where every year there is a dip? Davis said, "It may be a coincidence but, it is where the bore was done."

Troy Parker from Fatboys Bar and Grill asked, "When does the bond payment go up to a 1.5 million?" Davis said, "2016." Troy said he is on the mailing list for the City and when he sees taxes are going up, he wakes up. He asked, "So are we at 'Build it and they will come'? You said you have projects that might have some interest." Davis said, "We are working on that constantly." Parker said he thought he saw something on this. "That you hired somebody to go out and do this, to bring businesses to the community. Is that a city position or a consultant?" Davis said, "We hired a marketing and branding consultant and will be following a basic plan to find businesses that are suitable for East Bethel. They will be able to advise us in ways that we probably haven't considered, directions to go. But, in the meantime, we are going to follow the basic plan that is in place to contact businesses, work with county and work with the state." Parker asked, "Who is doing that now?" Davis said, "Council members, myself, and the City Planner." Parker said, "It has been a while since anything has been built out here." Davis said, "It has. And one of the reasons is probably the lack of services. We have had a lot of interest and a lot of inquiries since this project has been started. So [he] thinks that is a positive sign." Parker said, "The first 500 cheeseburgers he sells a month pay his taxes. Are you looking for big boxes?" Davis said, "We are looking for anything that is suitable for East Bethel and that we think will be positive for the community. Not to say we are going to be real picky and exclude anybody. The consultant will come up with strong recommendations to attract businesses and [he] feels like it will be a very worthwhile product to give us some additional guidance to attract businesses."

There were no more comments so the Public Forum was closed.

Lawrence said we have a survey that we are looking for residents, businesses and visitors to fill out. It is on the front page of the website. If you don't have a computer, call City Hall at 763-367-7840.

Consent
Agenda

Boyer made motion to approve the Consent Agenda as amended including: A) Approve Bills; B) Meeting Minutes, January 18, 2012, Regular Meeting; C) Resolution 2012-15 Amending the Fee Schedule; D) Appoint Fire Fighters; E) Completion of Probation of Fire Fighters; F) GRE Mediation Representatives; G) Resolution 2012-16 Approving an Application with No Waiting Period for An Exempt Period for Cedar Creek Community School PTO to Hold a Raffle. DeRoche seconded; all in favor, motion carries.

Linda
Gutzkow –
IUP
Amendment –
20825 Tyler
Street NE

Davis explained that Ms. Gutzkow is requesting an amendment to her IUP to expand her home occupation. In 2006, an IUP was approved to allow an FDA approved electrology business known as "Linda Gutzkow's Permanent Cosmetics." Ms. Gutzkow would like to include the following services as part of the home occupation: teeth whitening, facial sculpting, permanent makeup (eyebrows, eyeliner, eyeshadow, lips), and micropigmentation.

Currently, Ms. Gutzkow practices permanent cosmetics at two spa locations (Andover and Crystal), and performs electrolysis from her residence. She is licensed by the Department of Health, so she is able to provide the services. Staff has received updated copies of the licenses. In order to perform permanent cosmetics from the residence, Ms. Gutzkow must obtain a license from Anoka County Community Health and Environmental Services

Department. Ms. Gutzkow has applied for the license and staff has been in contact with Mr. Daniel Disrud regarding the license. Ms. Gutzkow is working with Anoka County to address the concerns that need to be addressed and must submit an approved license prior to performing services.

The hours of operation are Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm. The duration of the treatments last between 15 minutes to 2 hours.

Parking needs generated from the home occupation shall be provided on-site, in the designated driveway.

Planning Commission recommends approval to the City Council of an amendment to the IUP for a home occupation to include permanent cosmetics applied to the face, teeth whitening, and facial treatments for Linda Gutzkow (d.b.a. Linda Gutzkow's Permanent Cosmetics), located at 20825 Tyler Street NE, PIN 183323410033, with the conditions as listed in your packet.

DeRoche made a motion to approve the request of Linda Gutzkow dba: Linda Gutzkow's Permanent Cosmetics for an additional Interim Use Permit located at 20825 Tyler Street NE (PIN 18 33 23 41 0033) with the following conditions: 1) Home Occupation shall meet standards in East Bethel City Code, Appendix A, Zoning, Section 10.19 Home Occupations; 2) The IUP excludes body art tattooing and piercings; 3) The IUP includes electrolysis, permanent cosmetics applied to the facial area (eyebrows, eyes, cheeks, and lips), teeth whitening, and facial treatments. Other services, not covered, require an amendment to the IUP; 4) Hours of operation will be Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm; 5) Client parking must be on the residence driveway; 6) IUP must be executed prior to performing cosmetic services; 7) Property owner/Applicant must submit copy of certification from the American Institute of Education and required permit from Anoka County Community Health and Environmental Services Department prior to performing cosmetic services; 8) Violations of conditions and City Ordinances will result in the revocation of the IUP. Boyer seconded.

Moegerle said, "At Planning Commission you indicated that you were not working forty hours at this business." Gutzkow said, "Correct." Moegerle asked, "And you indicated that at some point you might consolidate your business to this location?" Gutzkow said it depends on whether she gets approved by the county to do the permanent makeup at that location. If she gets a permit from the city then the rest of that will get submitted to the county and then they come out and do an inspection. This is new territory. They have not approved this type of work in a residence so far, so she can't really answer that. Gutzkow said if she gets approved she is likely to drop the Andover location, if she doesn't get approved, she has to have some place to work. Lawrence asked, "How many people will be working with you?" Gutzkow said just herself. Moegerle asked, "How often do these get rechecked and renewed?" Davis said, "It can have any term you want put on it." Gutzkow said she tracked the amount of traffic coming in and out and there was a total of 23.25 hours where there were business cars in her driveway. It does not affect the street a lot. She went around and did a survey. Got 8 back and all were positive. Gutzkow said a big reason for asking to have business in one location: it is tough to provide part of your services in one spot and part of your services in another spot. She said also when she works in Salons she has to make sure she has everything coordinated. It ends up to be a lot of work. It has gotten to be a little bit difficult and time consuming.

Boyer said he would like to amend this to have the two IUPs run concurrent. Voss said he was looking at the IUP and it has run out, but it is being reviewed by staff. Lawrence asked do you have a neighbor here? Neighbor said he is all for it. Moegerle said she reviewed [Gutzkow's] website and she liked what [Gutzkow] is doing with people with chemotherapy. DeRoche asked, "Do you plan on adding someone on to work with you?" Gutzkow said no, she hopes to not have to. She wants to be busy enough to work part-time and take care of her family. **DeRoche accepted the amendment. Boyer seconded the amendment. Boyer, DeRoche, Lawrence and Moegerle, aye. Voss abstained.** Voss said the amendment made it sound like there are two IUPs. He said there is no expiration on the IUP, so until it is removed there is no expiration on it. Moegerle said, "Yes. We see an annual review and then a biannual review under the conditions of the permit." Voss said, "This is just adding onto the conditions of the IUP, it is not a new IUP. He said he didn't vote, because he doesn't want to do anything procedurally wrong and have it come back to us. Vierling said, "With the amendment to the motion, the amendment was to run the two IUPs concurrent, thinking that there were two IUPs. If we want to have just a motion to approve the IUP as presented tonight, for the record, he thinks that is fine."

Boyer made a motion to approve the request of Linda Gutzkow d/b/a Linda Gutzkow's Permanent Cosmetics to amend the Interim Use Permit located at 20825 Tyler Street NE (PIN 18 33 23 41 0033) with the following conditions: 1) Home occupation shall meet standards in East Bethel City Code, Appendix A, Zoning, Section 10.19 Home Occupations; 2) The IUP excludes body art tattooing and piercings; 3) The IUP includes electrolysis, permanent cosmetics applied to the facial area (eyebrows, eyes, cheeks, and lips), teeth whitening, and facial treatments. Other services not covered require an amendment to the IUP; 4) Hours of operation will be Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm; 5) Client parking must be on the residence driveway; 6) IUP must be executed prior to performing cosmetic services; 7) Property owner/Applicant must submit copy of certification from the American Institute of Education and required permit from Anoka County Community Health and Environmental Services Department prior to performing cosmetic services; 8) Violations of conditions and city ordinances will result in the revocation of the IUP. DeRoche seconded; all in favor, motion carries.

Motor Vehicle
Sales – Ryan
DiMuzio &
Jordan Valder
– 18803 Hwy.
65 NE

Davis explained Ham Lake Motors has an active Motor Vehicle Dealer's License from the state, however, it has not operated an open sales lot in East Bethel for at least the last three years. Since City Code does not allow this type of use, an Open Sales Lot is considered nonconforming. City Code Appendix A, Zoning, Section 5.2 states that "nonconforming uses may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless the nonconforming use or occupancy is discontinued for a period of more than one year." This language is in conformance with Minn. Statute 462.357, Subd.1e. Nonconformities.

The only possible way for an Open Sales Lot to operate from the property would be with a Zoning Text Amendment to allow this type of use in the B3 – Highway Business district. Staff has approached the City Attorney asking for options to address the issue. The City Attorney stated that the City Council could amend the Zoning Code to allow an interim conditional use permit for such uses that would terminate as the property is transitioning to another use and to put a timeframe on the permit. Zoning Text Amendments require the formal process of a public hearing at Planning Commission and approval of City Council. The process is typically 8 – 12 weeks.

This particular issue has been in discussion among Staff and the tenants of the property since fall 2011. In September of 2011, staff sent a letter to the property owner, Tim Chies. The letter explained the Zoning Text Amendment (ZTA) process. Mr. Chies, being the property owner, could apply for a ZTA. Staff recommended he submit a letter to the City Administrator with the request. Staff has not had contact with Mr. Chies.

Mr. DiMuzio would like to present his proposal of operating an open sales lot at 18803 Highway 65. Again, an Open Sale Lot would only be allowed with an approved ZTA and permit.

This item was presented at the January 24, 2012 Planning Commission meeting; at which time the Planning Commission made a recommendation to City Council to direct staff to move forward with a Zoning Text Amendment to amend the B3 – Highway Business District to allow open sales lots with an Interim Conditional Use Permit.

Planning Commission has some concerns such as limiting the number of automobiles on the lot. If directed to continue with the ZTA, staff will work with the City Attorney on the amendment language and to address the concerns. If directed to continue, staff plans to have a draft for review at the February 28, 2012 Planning Commission meeting.

Staff and Planning Commission have the following requests:

A request to allow Mr. DiMuzio and Mr. Valder to present their concept for an open sales lot at 18803 Highway 65, East Bethel, and Planning Commission requests City Council direct staff to move forward with a Zoning Text Amendment to amend the B3 – Highway Business District to allow open sales lots as an Interim Conditional Use Permit.

DiMuzio said, “We do understand that the property will be sold when the City moves forward.” Moegerle said, “You made a presentation to the Planning Commission on what you are anticipating. Can you repeat that here?” DiMuzio said, “It is not going to be an Open Sales Lot. We are a broker, get the vehicles for people. So it looks like a regular store. Unfortunately, we have to float some of these, so we might have up to 20 vehicles on the lot. But it is a regular store, trying to get away from the used car lot image. Not open to 9:00 p.m. Sign can be inside. We need to differentiate between the businesses.” Voss asked, “Are you planning on having signage on highway?” DiMuzio said, “We just need an address sign, to make it seem more professional. We have revamped it on the inside.” Davis said staff met with Ryan and Jordan and discussed this possibility. “We did discuss that this property is in the sewer district and will probably have a higher use or value in the future. So we explained that we would probably put a specific time limit on this or when the property is sold it would go away. That way, if there were other uses for that property that were more beneficial in terms of our sewer project, they would be able to proceed along those lines.”

Boyer asked, “Was a building permit pulled on the improvements? Did staff inspect the improvements?” He said because in the past there have been issues with this building with the Fire Marshall. Moegerle said, “The City Planner did go through this building and she has been through there also.” Davis said, “He would have to check on that.” DiMuzio said, “We had a certified electrician come in and redo the wiring. We have done quite a bit of work on it.” DiMuzio said, “We would like to move to the other side of the highway, to the business district in a pole building and keep all the cars inside.” Voss asked, “So this is a new endeavor? And you would be utilizing a property that is underused right now, but that would have a different use in the future. What kind of time frame or period of IUP would you be

comfortable with? And more importantly, what kind of transition period would you need, as a business, if the city decides at some point it is time for a different use for this property? How much time would you need?" DiMuzio said, "We could be out in 60 days." Voss said because if there is a way to keep you in the city we would like to do that. DiMuzio said, "We do have plans. We have talked to others that lease space because we just found out that we are looking at maybe a one or two year window. And we are at the Council's mercy. If we just have an opportunity to recoup the money that we put into the building so we can stay in business to provide for our families and then move forward, that is all we are asking.

Moegerle said, "You might also advise council of your respective experience in car sales." DiMuzio said he has 14 years with the Luther Group as a manager, 5 years as a salesman. Lawrence asked, "A Zoning Text Amendment, would this open it up to all categories, all businesses under the B-3 zone?" Davis said, "That is correct." Lawrence asked, "Do they all have to have an IUP to get the license to operate?" Davis said, "No, if we did a Zoning Text Amendment, then it would allow Open Sales Car Lots." Voss said it would be a permitted use. He said we don't have a zoning map in front of us to understand the effects of this. Davis explained where B-3 zoning is. Boyer said he thinks everything south of Klondike is B-3.

Moegerle said, "In our zoning ordinance we don't allow open car lot sales. So can they request a variance or is the Zoning Text Amendment their only alternative?" Vierling said, "There is no variance from a prohibited use. You can't vary from uses, you can vary from dimensional requirements." DiMuzio said, "A brighter note is for the area we are talking about is we know it is all filled up. A conventional car lot wants to be right along the Highway, so there is not a spot left to put it." Voss said, "It seemed that the point here, was it was a non-conforming use and it hadn't been used for more than a period of a year, at least in the staff write up that is what it says, state statute." Vierling said, "It was both a common provision in the state statute and your ordinance with regard to discontinuance of that use, once it has gone dormant for over a year, that use is gone." Voss said, "Given what we have gone through in the economy, can the City change that to a longer period? Vierling said, "But we can't make it effective to a prior date." Moegerle asked, "If we make a Zoning Text Amendment, can we later vacate it?" Vierling said, "You can always amend your Zoning Code, but property rights do accrue. Even though you would choose to amend, delete or modify your Zoning Code with regard to a permitted use in an area, to say make it non-permitted in an area, you could not take away the real estate rights that had been acquired by people that were in place."

Davis asked, "What amount of outside storage space would you require?" DiMuzio said, "Just enough room for what we handed out to you. And we do park a maximum two cars out back." Moegerle asked, "Can we say internet sales?" Vierling said, "You ultimately have car sales." Voss said, "The purpose is not to sell cars, it is the product. This is wholesale, not retail." Vierling said, "It is retail, because the sale hasn't happened until the customer comes in and makes a payment." Boyer asked, "If we tabled this for two weeks would it really be a big deal for you?" Valder said his license expires next month in Spring Lake Park and he doesn't really want to renew it there because then he would have to get in a lease with that guy and he is already in a lease with this guy. Boyer said he is saying for two weeks. Valder said, "That is fine."

Voss made a motion to table the Zoning Text Amendment to amend the B3 – Highway Business District to allow open sales lots to allow staff to work with the applicants to find a create alternative to the Zoning Text Amendment with the understanding of the consequences that could happen for two weeks. Moegerle seconded; all in favor, motion

carries.

Pay Est. #9,
S.R.
Weidema,
Project 1,
Utilities

Jochum explained that attached is a copy of Pay Estimate #9 to S.R. Weidema for the construction of the Phase 1, Project 1 Utility Improvements. The major pay items for this pay request include sanitary sewer construction along TH 65 and sewer and water lateral construction under TH 65. Two separate payments will be made. One payment will be to S.R. Weidema and the other will be to the escrow account established at TCF Bank. We recommend partial payment of \$37,264.52. A summary of the recommended payment breakdown is as follows:

Contractor Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$3,348,815.56	\$3,324,841.78	\$23,973.79
City	\$2,420,053.76	\$2,408,626.26	\$11,427.50
Total	\$5,768,869.32	\$5,733,468.03	\$35,401.29

Escrow Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$176,253.45	\$174,991.67	\$1,261.78
City	\$127,371.25	\$126,769.80	\$601.45
Total	\$303,624.70	\$301,761.47	\$1,863.23

This estimate includes payment of \$35,401.29 to S.R. Weidema and \$1,863.23 to the escrow account for a total of \$37,264.52. Payment for this project will be financed from the bond proceeds. Funds, as noted above, are available and appropriate for this project.

Staff recommends Council consider approval of Pay Estimate #9 in the amount of \$35,401.29 to S.R. Weidema and \$1,863.23 to the TCF Bank escrow account for the Phase 1, Project 1 Utility Improvements.

DeRoche made a motion to approve Pay Estimate #9 in the amount of \$35,401.29 to S.R. Weidema and \$1,863.23 to the TCF Bank escrow account for the Phase 1, Project 1 Utility Improvements. Boyer seconded; all in favor, motion carries.

2012 Joint
Powers
Agreement
Street
Maintenance
Program

Davis explained that the Cities of Coon Rapids, Andover, Brooklyn Center, Columbia Heights and Fridley entered into a Joint Powers Agreement on February 1, 2005 for the purpose of joint bidding for certain street maintenance services. This Joint Powers Agreement allows smaller cities to achieve more economies of scale in the bidding process and potentially achieve lower bids from contractors for crack sealing, seal coating and striping. The City East Bethel joined the group in February, 2008.

The City of Coon Rapids is the lead agency by the agreement for this group. As the lead agency, they draft the specifications, solicit bids and provide the necessary documents for member cities to sign to participate in the program. The agreement is structured such that it permits each member city to accept or reject the bids for their portion of the proposed contract. Each city will pay the contractor directly for their share of the work and contracts will be awarded separately for the various items.

The process is as follows:

- 1) The City of East Bethel submits the quantities for crack sealing, seal coating and

- striping to the City of Coon Rapids for inclusion in the collective bid.
- 2) The City of Coon Rapids develops all bid specifications and solicits bids for all quantities submitted by member cities. Bid specifications follow MnDOT guidelines requirements.
 - 3) Each City may modify the quantities they have submitted to maintain budgets for these projects after the low bid has been identified.
 - 4) Bids for these projects will be opened on March 2, 2012. The City of East Bethel is required to submit a letter of concurrence to the City of Coon Rapids by March 22, 2012 authorizing the City's level of participation in the program for 2012. The bid award date will be April 3, 2012.

The City of East Bethel realized savings of at least 20% over previous costs for these services through participation in the JPA Street Maintenance program. The savings were due to the pricing in the current construction market and the larger base of purchasing power afforded by the group bid.

The following projects are recommended to bid as part of the 2012 JPA Street Maintenance program. These projects have been identified in the 2012 Street Capital Improvement Plan (CIP) and recommended by the Roads Commission.

1. Seal coat and crack seal Hupp St, 239th Ave, 231st LN, 233 Ave, Erskine St, Kissel St, 234th LN, Isetta St, 224th Ave.
2. Crack-seal 150,000 LF as part of the annual street maintenance program. Crack sealing will be performed prior to any seal coating applications.
3. Stripe 60,000 LF of striping on University, Briarwood, Palisade, and other roads to be determined.

Bidding the item does not obligate the City to accept the bid. The bid for individual items can be rejected or amended as to quantities to accommodate the project budget.

The estimate for seal coating and crack sealing the above listed streets is \$191,377. These projects will be funded from the Street Capital Fund as identified the 2012-2016 Capital Improvement Plan.

Staff recommends the approval of these projects to be bid as part of the City's JPA Street Maintenance Agreement. Bids for the work will be presented to City Council for final approval at the March 20, 2012 meeting.

Boyer made a motion to approve the 2012 Joint Powers Agreement Street Maintenance Program. Lawrence seconded; all in favor, motion carries.

Boyer said he is curious; what was the Road Commission rationale for not continuing the farthest northern 1/3 of Durant Street. He asked, "Was that done at a different time?" Connects to Erskine. Davis said, "That section of Durant to 229th north to the dirt road to Cedar Creek was done two years ago." Boyer asked, "Is this the same program we have been doing the last couple years?" Davis said, "That is correct."

Chief DuCharme said in 2011 the East Bethel Fire Department responded to 521 calls, a slight decrease from 2010. He said well over half of the emergency calls are medical related. "One of the reasons we did not have an increase of calls was a wet spring and summer and lack of increase in wild land fires. Right now DNR is talking to fire departments and not sure how much support they will be able to give us because of conditions. [He] included a list of all calls. One of things [he] did want to let you know is we do track calls, and we do grids in the city. That way we know where we are providing services in the city. Surprisingly, the higher the density in the area, the higher services we provide." He has also included a map on how those are laid out and some data that goes with that. Chief DuCharme said, "Not surprisingly, our busy hours are from 4:00 p.m. to 8:00 p.m. and Tuesday, Fridays and Saturdays are our busiest days. He said and when you look at the whole year, July and August are our busiest months when the heavy storms came through."

Chief DuCharme said illegal burns are big issues and he will be bringing that up to Council member DeRoche. We had a fire loss in 2011 of \$350,000, which is pretty good. Moegerle asked, "The total personal property loss was \$350,000? Because you say that is good." Chief DuCharme said, "Yes, it is relatively speaking. Some departments have millions. We have fire fighters that do a lot of training, and a lot of this is non-paid hours. We have on average about 195 hours of paid time a year and non-paid hours, 126 hour per year. So average pay is about \$6.26 per hour when you figure that out. We do have a fire safety inspection program. We have a very part time fire inspector, Mark Duchene who does the fire inspections. Of the 110 businesses that the fire department has to inspect, he did 75 of them, 45 of them he did in one inspection, 25 had two inspection and handful three or more times. So, all together, he did about 110 inspections, working about 4 hours a week. And the last page is our seniority list. [I] want Council to be aware our fire fighters are vested at 10 years and about half of our Department is vested and two of our fire fighters will have 30 years this year."

DeRoche asked, "Are those fire inspection violations, are most of them just blocking fire exits and those types of things?" Chief DuCharme said, "Yes, or fire extinguishers, etc. Businesses we don't go to are the home based businesses because we really don't have that database, nor do we have the manpower (the way we are organized)." DeRoche asked, "Are there friendly reminders when these violations are found?" Chief DuCharme said, "Yes. They are mailed a notice and mandatory compliance." DeRoche asked, "If you keep going back and back and it is the same violation, are they issued a citation?" Chief DuCharme said, "They could be, if we have an issue where they are not coming in compliance." DeRoche asked, "Do most of these buildings have the alarms up in the ceilings?" Chief DuCharme said a lot of them do. And a lot of them are monitored. DeRoche asked, "Is this required in any commercial structure?" Chief DuCharme said, "Not necessarily, it depends on square footage, structure and occupancy."

Moegerle said she saw you have couple of animal rescues on here; "Do you still rescue cats in trees?" DuCharme said those are actually dogs. Moegerle said she did an eight minute cut off on response times. 8B, C and D, and 1B, C and D, in Coon Lake Beach [we have longer response times]. How do we address the longer response times? We have a fire barn at Coon Lake Beach but it is not manned at this time. Chief DuCharme said, "Our goal for the coming year is that is where our focus for recruiting will be. We want to make sure that station is properly staffed so that responses are adequate." Moegerle asked, "Because the large amount of calls are EMS issues, should we have an ambulance out here in the City to relieve the stress on you doing that?" Chief DuCharme said, "That comes down to community values and services. We think that the EMS business we provide a good service to the people, we

also assist our sheriff deputies and Allina having our patient packaged and ready to go, a quicker response. Don't think our relationship between the Sheriff, Allina and ourselves has never been better."

Boyer asked the chart says hazardous conditions, no fire. He assumes those will be weather related. Chief DuCharme said, "It could be, or can be carbon monoxide related." Boyer asked, "Do you have a rough idea what the percentage is weather related or other?" Chief DuCharme said probably 50/50. Boyer asked, "Are you included in these charts? Call pay vs. hours?" Chief DuCharme said no.

Voss said earlier this year we had a brief discussion of review of the fire rating. He asked have we done anything on that. Chief DuCharme said, "We just completed working with Bethel and Oak Grove on their fire rating. As soon as we get the water system on line, that will get us a lot more water." Voss asked, "So that will help us get our rating reduced?" Chief DuCharme said, "It will be a split rating 5/7." Voss said we had asked that previously. Chief DuCharme said, "They do split that now. Not all insurance companies use ISO for ratings. He takes a dozen calls a week from insurance companies. Questions are all the same."

Review City
Code Chapter
6. Alcoholic
Beverages

Davis explained that per Council direction, staff was instructed to review Article IV, Section 6-93 of the above ordinance, Prohibited Sales and Compliance Checks, and recommend changes to Council that would provide additional discretion in the administration of penalties and fines under the ordinance.

Mr. Vierling's office was also contacted to provide information on why the licensee was charged and not the clerk. He has provided a memo with information tonight. At this time it is staff's recommendation to do a rewrite of the other section of this code.

Moegerle made a motion to table the review of City Code Chapter 6, Alcoholic Beverages. DeRoche seconded. Lawrence asked, "Can you also check on the charges in this." Davis said, "That is also part of what we will be doing with Vierling's review on the other part of this." **All in favor, motion carries.**

City Council
Representatives
for Local 320
Subcommittee
Meeting

Davis explained that staff has conducted four meetings with Mr. Mike O'Donnell, Local 320 Business Agent, to discuss the 2011 Wage Re-Opener for the City's union contract employees. To date there has been no resolution of the matter. Mr. O'Donnell has requested a meeting with two City Council members to continue this discussion.

Staff recommends the designation of two City Council members to meet with Mr. Mike O'Donnell at the East Bethel City Hall at a time to be arranged.

Boyer asked, "What time will the meetings be held?" Davis said he will furnish us some dates and we will arrange some times and it will be arranged at your convenience. Voss said they are not pleased with how it is going with staff, so they want to meet with council (or he assumes this since they want to set up a meeting).

Boyer and DeRoche said they would volunteer. **Moegerle made a motion to designate the finance committee to meet with Mike O'Donnell, Local 320 regarding the wage reopener. Voss seconded; all in favor, motion carries.**

S.R. Weidema
Contract

Davis explained in your packet there is a rather lengthy write-up on this. He said however, there are some things that occurred today that may alter the recommendations of staff. And

due to matters of potential litigation on this, he is recommending we table this part of the write-up and address this in the closed session that is scheduled for later on at the last of the meeting.

DeRoche made a motion to table the S.R. Weidema Contract Extension. Voss seconded. Moegerle asked, "Could we hear the presentation, and then do actions in the closed session?" Vierling said, "You can certainly have presentation here." Moegerle said, "It is the last item we have, and there are quite a few people from the public here and it might be of interest to them." Davis said he has no problem presenting the issue, but any discussion, we should limit it severely. **All in favor, motion carries.**

Davis explained that "S.R. Weidema ceased work on the interceptor pipe installation portion of the Municipal Utilities Project due to soil migration issues being experienced in the section of the project north of 189th Avenue on December 9, 2011. There was no direction given to Weidema by the engineer, MCES or the City to stop work. The decision to stop was made solely on their own."

The issue, that S.R. Weidema based their decision to stop work, was a claim of a design problem associated with the construction methods detailed in the specifications of the contract. The engineer and MCES contend that the specifications and design are appropriate and it is the contractor's responsibility to install the pipe using the necessary means and methods for proper installation and protection of the pipe. The engineer and MCES further contend that pipe has not been installed in accordance with the plans and specifications for the 80' section of pipe and a manhole that is in contention and is located just north of 189th Avenue (this is the only portion of the project that is in question for what has been installed to date.)

The engineer directed S. R. Weidema on December 19, 2011 to resume work on the project, replace the work that is considered defective and be advised that no additional compensation will be paid for this claim (design questions) as the work termination was directed by S.R. Weidema.

Since the issuance of that letter there have been numerous meetings with S.R. Weidema to resolve this matter. S.R. Weidema's request for additional compensation and a time and materials approach for payment for the remainder of the project were reviewed and summarily rejected by the City, MCES and the project engineer. A final letter was sent to S.R. Weidema on January 20, 2012 instructing them to:

- 1.) Promptly proceed with the work in accordance with the Contract Documents;
- 2.) Remove and reinstall the pipe north of manhole 109 and reinstall manhole 110; and
- 3.) Continue to work according to the schedule on all uncompleted work south of manhole 109, along 189th Avenue and all other items as previously identified.

S.R. Weidema returned to work on the project on January 24, 2012.

S.R. Weidema has submitted a change order request to extend the project completion date from July 31, 2012 to June 30, 2013 due to the mild winter weather that has prevented efficient and effective maneuverability of equipment in the swamp section of the project. This project was designed to have the installation of this section completed during a normal winter with deep frost conditions that would allow the operation of heavy equipment on a firm and stable base. The change order reflects no additional increase in the cost of the project. The attached letter from Bolton and Menk indicates that the enclosed Change Order No. 4 does

not include any increased contract amount related to City water main facilities located in the subject area.

Even though S.R. Weidema did not perform any pipe installation work on the interceptor line for approximately 45 days, this delay may not have any material affect on the original completion date of the project. This contract was designed and bid with 2 “normal” winters factored for completion. With these considerations in mind, denial of the time extension request for the change order would be difficult to defend. This opinion is shared by both the project engineer and the MCES.

If the change order is approved the pipe completion date should be much earlier than the June 30, 2013 deadline. The additional time between the pipe and the contract completion date would be needed to finalize the project after the frost goes out of the ground. Activities such as final project cleanup, grading, completion of the service road to the manholes and revegetation would be completed in May and June of 2013.

MCES signed the change order on to grant the extension on January 26, 2012.

There would be no increased costs to the City for the water main portion of the contract if the change order is approved. Any additional cost would be on the sewer portion of the work and this would be borne by MCES, as indicated in previous documentation that was sent to City Council. MCES would re-open discussions regarding the City's responsibility to MCES for payment of the 100 SAC units for 2012, the individual SAC charges of \$3,300 which are to begin in 2012 and the flow requirements that are contractual obligations.

If the change order is approved, our bond cash flow projections would be altered under the assumptions presented in the attachment, Water Sewer Bond Cash Flows Projection 2. These projections reflect a deficit of \$557,092 in 2013 with continuing and increasing deficits throughout the 5 year projection period. Please keep in mind that this cash flow scenario is a conservative estimate of the effect of the delay in the project and varying conditions or changes in the economic development process and/or the economy could substantially change this presentation of conditions.

Other items of potential additional cost to the City would relate to the provision of water service to users in the project area that would require this service prior to the extended project completion date of June 30, 2013. The request for service would have to be analyzed on a case-by-case basis to determine costs for alternative water supplies for a period of up to one year, should connections be required to the system during this time period. Sewer service could still be provided in the area south of 189th Avenue.

One remaining item that must be resolved is the scheduling of the extension of utilities to the water treatment plant. These services are in S.R. Weidema's contract and must be in place to permit the construction and execution of the contract of the water treatment plant. Normally, this would be one of the last segments of the project to be completed, but that is under the condition that the project would have been completed as originally contracted. Under the current circumstances, a time extension will necessitate skipping the order of the normal progression of the line extension to prevent any delays on the City's contract with MBI for the water treatment plant.

Denial of the change order could place the City at risk for additional project time delays, potential increases in project costs, the risks and costs associated with litigation and the

further delay of revenues required for bond payments for the project.

Council
Reports –
DeRoche

DeRoche said there was a slight accident; someone burned their house down. Word he got is someone cleaned their fireplace and the ashes ended up in plastic trash can next to their garage. He said if you are going to clean your fireplace, make sure you know where the hot ashes are going. On Coon Lake there are a lot of people fishing; he doesn't know if he would trust the ice.

Council
Reports -
Moegerle

Moegerle said on Saturday she attended the Leadership Conference put on by the League of Minnesota Cities. The nugget that came from that is: all cities should be focusing on strategic planning for the future. She thinks this is something we need to look at; strategic planning. "Today we had the EDA Kick-Off on Branding and Marketing with Ady Voltedge, with the stakeholders in attendance." She thought that was very beneficial. Moegerle said, "We also started the interviews with stakeholders." She said be sure to complete the survey, "We need 600 people to complete the survey." Moegerle said she visited with the principal at the East Bethel Community School and she needs to visit with the principal from the Cedar Creek Community School. "Also we have the EDA Retreat on Saturday, February 11th. It is a busy, busy time."

Council
Reports –
Voss

Voss said on that survey, we got an e-mail notification this afternoon, and he did immediately. He thinks it was very well written and it was very easy get through and fairly easy to understand what they are asking too. He asked with reference to the stakeholder meetings with Ady Voltedge are there going to be evening meetings. There is no way he can get away from work during the say like that. Davis said no. Moegerle said there will be follow up meeting when it is done. Voss said he cannot make the Park Commission meeting, he will be out of town next week will someone cover for me. DeRoche will cover for him.

Council
Reports –
Boyer

Boyer said he wants to mention the political caucuses are next Tuesday at 7:00 p.m. He said we have more information on the locations at City Hall, and a link on the website. They are at Our Savior's and at the Community School.

Rental Ord.

Davis asked, "Is City Council interested in looking at a rental ordinance?" Council said yes.

Closed
Session –
Project 1,
Utility
Improvements

Vierling explained, "Pursuant to Minnesota Statute 13D.05, Subd. 3, he recommends that Council adjourn to a closed session to review possible litigation for an Attorney/Client discussion of the Project 1, Utility Improvements between the City of East Bethel and Metropolitan Council Environmental Services (MCES) and S.R. Weidema in the matters of contract dispute. When we come back we will summarize any actions taken or motions made during the closed session."

Moegerle made a motion to adjourn to closed session. DeRoche seconded; all in favor, motion carries.

Vierling said, "For the record, the City Council adjourned to closed session to review matters of possible litigation for an Attorney/Client discussion of the Project 1, Utility Improvements between the City of East Bethel and Metropolitan Council Environmental Services (MCES) and S.R. Weidema in the matters of contract dispute. Present were the council; Mayor Lawrence, Council Members Boyer, DeRoche, Lawrence, Moegerle and Voss, Jack Davis, Craig Jochum, Kreg Schmidt and myself. During the course of the meeting the Council was updated by the consulting engineer on the status of the dealings with the contractor on the site, and the Council was provided suggestions and opinions from the engineers and legal

staff with regard to how to proceed. Staff received Council discussion and benefits of their discussions on how they wish to proceed. There were no specific actions taken at the closed session. Staff was instructed to have future discussion with the contractor, Mr. Weidema, and it is expected that this item will be on the next agenda.”

Adjourn

Boyer made a motion to adjourn at 11:07 PM. Moegerle seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk

EAST BETHEL CITY COUNCIL MEETING

February 1, 2012

The East Bethel City Council met on February 1, 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 February 1, 2012 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the February 1, 2012 City Council Agenda. Boyer seconded; all in favor, motion carries.**

Dale Voltin – Planning Commission Lawrence explained that Dale Voltin served on the Planning Commission in 2011 and Council would like to present him with a plaque and acknowledge his service. He said we thank you very much for the time that you have dedicated to the City, because he knows this takes a lot of work and a lot of time out of your day to do this. Voltin thanked the Council for the opportunity of serving. He said he enjoyed every meeting. He said you have an excellent commission and excellent staff.

Dan Butler – Park Commission Lawrence explained that Dan Butler served on the Park Commission from 2009 to 2011. He said he appreciates all the work Butler has done. He knows that Dan has gone above and beyond on some of the things we have asked you to do. Butler said “Mayor it was a pleasure working with you as our liaison the last year. Also working with Jack Davis before his current position as the public works manager.” Butler said “Thank you both.”

Dan Kretchmar – Park Commission Lawrence explained that Dan Kretchmar served on the Park Commission from 2009 to 2011 and Council thanks him for his service. Davis said Mr. Kretchmar could not make it here tonight, but we will make sure that his plaque is delivered to him.

Introduction of Fire Fighters Fire Chief Mark DuCharme said he would like to introduce some of our newest fire fighters. He said the first couple are fire fighters that have completed all their probationary requirements. Chief DuCharme said and the second group that you will get to meet is the new ones that have been approved to be probationary fire fighters. Plus, there are a couple on tonight’s agenda for approval.

Fire Fighters introduced themselves as follows: Wade Hoffman off probationary. He has been a resident of East Bethel for 5 years and he is proud to serve the City. Ryan Henry has been a resident going on 6 years and he is proud to serve the City. Hoffman said he would also like to speak for four members that are not present; Kalli Haapoja, Bill Folwarlski, Chad Fish and Stephanie Kirkham. Hoffman knows they all enjoy living working in the City and are proud to serve the City as well.

Chief DuCharme said the next group is our newest members. He said the one that is missing is Mike Howe; he is working tonight. Chief DuCharme said Howe actually works with the Sheriff’s Department. Andrew Dotseth said he has lived in East Bethel for a little over 2

years and “Thank you for the opportunity.” Brody Rodenaugh said he has lived in East Bethel for 8 years now and “Thank you for the opportunity.” Abby Vados said she has lived here for nearly all her life and “Thank you for the opportunity by becoming a probationary fire fighter.” Joshua Sturman said he has been here since 1983; he appreciates the opportunity to do something positive in the community. He said he lives on Coon Lake.

Interview
EDA
Candidates

Davis explained that the term for one EDA Ad-Hoc Member, Tom Larson, expired on January 31, 2012. This was promoted to a full time member.

To fill this vacancy, we advertised on the City’s website, on our community bulletin board and on Channel 10. The City received applications from Dan Butler and Greg Hunter in response to our ads. We have included copies of the applications as part of your agenda materials.

Staff is recommending Council interview the two candidates for the EDA vacancy. Greg Hunter could not be here tonight. Davis said at this time he would like to ask Dan Butler to come up for his interview.

Dan Butler said just a couple things; there is a change on his application. In the interest of saving paper and the Reduction of Paperwork Act, as of 2012, initiated by him on behalf of the City of East Bethel, he is no longer on the Park Commission. He said he moved to East Bethel in 1997, and has been a resident for 14 years. Butler said he has been an active member in the community, serving on the Ham Lake Area Chamber of Commerce as president for 2 years, and is currently the vice-president of that Chamber. He said he has a little bit of a different vision on the Chamber of Commerce and how that interacts with communities and he is pushing a less parochial approach for Chamber and to broaden its scope with neighboring communities. Butler said he also recently just gave up his position as a board member of the Beaverbrook Sportsmen Club. He said he is still an active member of the Club, but no longer on the Board of Directors.

Butler said he really thinks that the EDA is a great opportunity for him to lend his talents to the Council and the City - in terms of his 35 years in business and some of the challenges he has seen in the economy. He said he has worked with major corporations like Kohl’s Department Stores, Macy’s, before that Dayton Hudson, Marshall Fields, etc. and met with a lot of top people in his previous business experiences. Butler said in 2002 he went off and started his own business. One reason was the economy; he was pushed out in terms of downsizing. Retailing was getting smaller and smaller. He said being downsized was one of the challenges he had in 2002 and he started his own business. Butler said he now offices over off of 186th and Ulysses and he also has an office in Apple Valley that his son works in.

Butler said in terms of why he wants to serve on the EDA, he thinks it is important for people in the community to become active, whether serving on City Council, a commission or whatever. He thinks some of the experience and talent he has would lend itself well to being on the EDA.

DeRoche asked Butler what he thought of the meeting this morning. Butler said he wasn’t involved in the meeting this morning. Moegerle explained that it was the Ady Voltedge Marketing and Branding Stakeholders Kick-Off meeting. Butler said he wasn’t at the meeting. He read through some of the proposals and he has been following the minutes of the EDA. Butler said he does have a degree in marketing and that also might lend itself well in terms of background. Moegerle said one of the things that are important to her is

“participation and attendance”. We have a retreat scheduled for Saturday, February 11th from 9:00 am to about noon. She asked Butler if he would be able to attend. Butler said he knows that he has some prior commitments on that date. He has the Ham Lake Snow Bowl on that day (if that gets pulled off because of lack of snow) he plans on participating in the ice fishing contest, but if he needs to scratch that he could.

Moegerle said you have a very impressive resume and a history of participation in a positive manner with the City. That speaks very well for you. Lawrence said he knows you from before, so he knows what kind of person you are and what kind of work he can expect out of you on the EDA. Butler said he doesn’t tend to over-promise, but he tends to over-deliver. Moegerle said and you have given us examples of that.

Council voted by ballot. Butler received the majority of votes by ballot.

Appoint EDA Member **Voss made a motion to appoint Dan Butler to the Economic Development Authority (EDA) for a term from February 1, 2012 to January 31, 2012. Moegerle seconded; all in favor, motion carries.**

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

Tom Seefeld of 18822 5th Street NE said he is here to talk about Gordon Hoppe. “We have had several meetings about this. We want to know where it is going and how it is going to stop or make it better for the neighborhood.” Seefeld said, “You guys gave him an easement or whatever at the last meeting and nothing has been done over there. They gave us their words that they were going to be out of there. These last two weeks it has been really quiet. There were things said in the meeting about the trucks coming and leaving at a certain time. We had it logged. We just want to know where you are going with this and if it can be stopped.” Seefeld said it is a residential area and he personally doesn’t feel he should be here again with this complaint. “We went through this in 2004,” he said, “we came to the other meeting,” and he wants to know; “where it is going?”

DeRoche asked “Up until two weeks ago, was it pretty steady after that last meeting where you guys came in?” Seefeld said yes. DeRoche said, “It was a variance so Hoppe could do his shop over on 22.” Seefeld said yes and you gave him the variance. DeRoche asked “And are you saying after that he just kept on and on? Is that what you are saying?” Seefeld said “Nothing has been done.” Boyer asked “Do we have a time on the variance?” Seefeld said he thinks March. Moegerle said “It is May.” Seefeld said “If the weather was really nice”. He said you can’t talk about better weather than this.

Lawrence asked Davis, “Where we are on this?” He said he knows that Davis has talked to Mr. Hoppe several times. Davis said he has talked to Hoppe and the residents. He said he told them this would be brought before Council and they would give staff direction on how to proceed on this matter. Davis said he thinks there is another resident that would like to speak on behalf of the 189th neighborhood. He said “And Mr. Hoppe is also in the audience too. If we can hear from the rest of the residents then we can go over some of the issues that are involved here.”

Moegerle asked Seefeld if he has photographs of these vehicles or a tape recording of the noise. Seefeld said no, he doesn’t have either of those. His place is on 5th Street and 189th. He owns the corner. Seefeld said when he hears the trucks leave in the morning (especially in the winter, when it is cooler the sound effects are different) he hears it going through the front of

his house and he looks out and can count the trucks. Then, when he hears them coming in off of University, he looks out his north window and he counts who is coming in. He said he is getting a double whammy from the trucks. Moegerle asked, "But you haven't had this trouble in the last two weeks?" Seefeld said, "There has just been one truck. It was a little truck that was brought in and never left. [He has] logged dates and times the trucks come in, what they were hauling, bobcats, backhoes, empty trailers. Some of them, they go out and then come back at 11:00 a.m. or noon and then 10 minutes later they are going back out empty. And it is the same trucks." He has it logged because he said he was going to do it. Seefeld said he knows there are pictures, other neighbors have them. Moegerle asked, "Does Mr. Davis have a copy of the log?" Seefeld said no, but he can give one to him. Moegerle said "That would be helpful."

Linda Larsen of 18727 5th Street NE said "Everyone keeps talking about how this came up previously so [she] has copies of minutes for you." Moegerle asked, "And these are from 2004?" Larsen said yes, they are from 2004. Right before [she and her husband] moved into the neighborhood. She said and then she has another bit of information that might be useful. Larsen said, "We work, we have hobbies, we are out of town so we can't log every time something comes in and out of the neighborhood." But she has a few pictures of the kind of machinery that comes in and out. And she has some logs.

Larsen said "The first handout shows the Hoppe property and where [her] property is. His big shed where most of the machinery is coming in and out is directly behind my house." She said so she thinks they get the brunt of it. Larsen said her husband works second shift and he gets woken up every morning around 7:00 a.m. Not always exactly that time. She said "So he hasn't had a full 8 hours sleep in about 9 months." Larsen said the next handout is the people on 189th, Jackson and 5th Streets who are not happy with the situation.

Larsen said she has been looking at City code, and she sees that (she knows they say they are not running a business out of their address, they don't use this address on their letterhead) they are pulling machinery in and out almost daily. "Sure there is a week here and there where it is lighter or they are on vacation, but overall every month since April there has been activity. There has been large machinery going in and out of this residence, disturbing us neighbors." Larsen said she has been reading some of the home occupation stuff and it says: "No traffic shall be generated by the home occupation." She said, "Well that has happened. It says: The home occupation shall not constitute, create or increase a nuisance to the criteria and standards..." Larsen said, "It is definitely creating a nuisance. It says: There shall be no outdoor display of goods or equipment." She said, "Of course he puts it away at night, but that is not what matters to us - that it is covered and in the shed at night - [it's] the wear and tear on the roads, the traffic, the noise. It says: There should be no detriments to the residential character of neighborhood." Larsen said, "We feel that it is [a detriment]." She said on this other ordinance it talks about structures, she is not sure how many square feet his sheds are. Larsen said there is one area where it says: 'Buildings greater than 3,000 should not be used for commercial or industrial activities.' She said, "And then it says the same for buildings greater than 1,000 square feet. This all sounds to [her] like it is not zoned for this type of activity."

Larsen said, "And the last thing is we are all zoned Rural Residential (RR) in this area. And for RR it says it is supposed to 'promote the rural character and provide an environment of peace and tranquility for district residents.' That is why most of us moved out to East Bethel is to get away from the hustle and bustle of the city. Not to have to be exposed to this busy stuff going on everyday." She said she is starting to notice with the warm weather new cracks in the roads. "Which we, as residents, pay for those. We don't really need the big trucks

going in and out ruining our roads.” Larsen said she really feels, like what Seefeld was saying, “With the warm weather this fall, why hasn’t anything started on this other building that they were supposed to be moving their business to? Very disappointed that it has taken this long, that you have to get us all riled up and in here.”

Moegerle asked Larsen if she has noticed, in the last two weeks, that there has been abatement of noise, like Mr. Seefeld noticed. Larsen said, “Towards the end of January we were told he was out of town and it was very quiet that week,” but Monday, she was leaving for work around 7:00 a.m. and she saw a big truck leave the property. Moegerle asked, “Did you see it or hear it?” Larsen said she saw it and heard it. Lawrence said, “Right now we are working with Mr. Hoppe to find out what is going on with his other place,” and “to, hopefully, get this move going on so he is out of the neighborhood.” Larsen said she hasn’t seen his other property personally, but she hears it hardly looks big enough to even have the room to store all this large equipment. She assumes you know what you were doing when you passed that variance for him.

Voss asked Davis to briefly summarize the current status of Mr. Hoppe’s property. Davis said on October 5th Council passed a variance allowing Mr. Hoppe to build two additions to his buildings at his Viking Boulevard location for the purpose of him totally transferring his all of his business operation and consolidating at this one address. One of the conditions that were granted as part of the variance was to allow him to store his equipment at his 604 189th Street residence until he completed these two additions. Davis explained that when his wife presented this to City Council, it was indicated that [Mr. Hoppe] should be in the building by maybe this fall, weather permitting, and there was a date of mid-May mentioned in the approval and motion for the variance to be in the building at Viking Boulevard. Voss said, “So the variance is pertaining to the property on Viking Boulevard, but the discussion was of the residential property?” Davis said that is correct.

DeRoche said he thought it was understood that the trucks were not going to be going in and out. That was a pretty large discussion, and he remembers the people standing up here talking about it, and it was going to be storage only. He said, “And they weren’t going to be coming up and down the street, he wasn’t going to be operating his business out of here.” DeRoche said he remembers “... [Mr. Hoppe’s] wife standing up here saying the exact same as Davis. Saying we are going to get going on it, and that is why we granted the variance.” He said to his knowledge there haven’t been any permits pulled or anything. DeRoche said he personally went through this in his neighborhood when his neighbors built at the end of the road, and it is pretty obnoxious. Voss asked, “Is there a CUP on the home business on 189th?” Davis said “No, there is not. There was an IUP granted in 2004 for one year.”

Gordon Hoppe of 604 189th Street NE said, “It is amazing how she [Larsen] has seen a truck because [his] guys have been out of town for three weeks. The month of December they have been out of town.” He told Davis he would give him hotel receipts. “All this noise they hear? There are three other businesses operating in our neighborhood. One of them has a semi that arrives three times a week. Next time her husband follows one of my trucks he will have the cops called, because he followed him clear to St. Louis Park.” Moegerle asked “What other businesses are in this neighborhood, that are contributing to this problem?” Hoppe said he doesn’t really want to say. “You can look them up. One has an IUP and the others do not.” He said there are other vehicles in this neighborhood also. Hoppe said he drives three diesel trucks and the guys never start before 7:00 a.m. He did that out of the kindness for the neighborhood. Moegerle said “And our noise ordinance requires that.” Hoppe said yes. He said he has been out of the neighborhood for three weeks, and for the whole month of December they worked out of town. They left Monday morning and came home Friday, he

has hotel receipts.

Voss asked what is going to happen between now and May. Hoppe said he will probably start on the building, but he was informed he had until May to get it done. That is what the paperwork says. Voss said "That is one issue, but in terms of what you are doing on your property on 189th." Hoppe said there will be trucks and equipment kept at his property for his life, because he uses them at home. Voss said "You said 'kept', you mean inside?" Hoppe said "They have never sat outside at night." Voss asked "But they are going to stay inside the building?" Hoppe said he took one out on Saturday because he had a diesel gel up. So he took one out of heated storage and put it into cold storage. Voss asked "But you are not going to job sites?" Hoppe said no. He said this is going to be his retirement home, so a couple of them will, for personal use; it will be his private carrier, not for hire. Voss asked "So for personal use that is the only expectation the City can have on going forward?" Hoppe said he has been informing Davis of this, he has talked to him on a regular basis. Hoppe said "But some of the neighbors should figure it out because the semi that leaves [his] business can't actually make the right hand turn out. So he has to make a left hand turn out and turn around in my cul-de-sac [the City's cul-de-sac] at the end of the street to leave. Two of the neighbors that are sitting here ran businesses out of their homes without IUPs or CUPs because they did work at my home." Lawrence said, "One of the issues is that your wife said weather permitting that you would have it done." Hoppe said he has been working out of town. There hasn't been any work here, so he has been working out of town. Lawrence said, "But she said weather permitting you would have it done this fall." Hoppe said he hasn't had time. Lawrence said he understands that.

Tom Eich said he owns some property south of Hoppe's. He said his daughter and son live there; three pieces of property. Eich said, "Most of [the] problem is with Hoppe's attitude; what you saw there, this is what he does. He doesn't go to be nice to a neighbor or respect them. They will jake break the truck, speed, make noise, blow off firecrackers, more than the City of Blaine does." Eich said, "This is zoned residential, not commercial. Until that is changed, he shouldn't be able to run a business there." He couldn't go to 65 and 22 and build a house. And if it was a small one man operation, fine. But you are talking about a big business; trucks coming in and out.

Ann Dalagher of 418 189th Street NE said she has nothing against Mr. and Mrs. Hoppe, they are probably fine people. "It is just what they are doing here. Your ordinances say it is wrong. Your City Administrator agreed with us that it is wrong. And here we are again." Dalagher said, "And now you have people that are ready to duke it out. Well, what do you expect? This is what you get when you keep coddling a situation."

DeRoche said, "But the group that is up here was not here in 2004, so we haven't been dealing with this issue since 2004. The first we heard about it was when he came here for variance and then people came in and spoke out. And that is why we gave him the variance to build the other building." DeRoche said he understands the frustration. Dalagher said, "Yes. And we have been in to see Jack. We have had good conversations and then everything turns around. Point is: what do we do?"

Moegerle asked, "When is the noise? Our ordinance says from 7:00 a.m. to 10:00 p.m. it isn't as strict. Are you talking about that time of day?" Dalagher said, "In the morning they go and a lot of time in the middle of the day they come back. Davis asked people to do logs and take pictures and that doesn't feel right either, quite frankly." Moegerle said, "But you have to do that." Dalagher said "It happens throughout the day, quite frankly. It is a safety issue also, that is not a freeway, it is a cul-de-sac. Some kid is going to dart out of a driveway and get

plastered by one of those trucks and then what? And it feels like, even tonight, Gordy's tone is like a bully, trying to bully the neighborhood; bully the Council. Just because he is big and strong and he's got a business. Dalagher said, "Well we got that same guy that is about 10 years old in our school pushing people around and we can't even get that under control." She said, "If we can't even control this type of action and attitude as adults how do we ever hope to get our arms around bullying?"

DeRoche said everything has to happen in a certain order, because everyone in this country has rights. And if we were to go in there and just shut him down, how many lawsuits do you think we would come out with? Dalagher said she doesn't think you would have any, because, obviously, you have given him forever to get this done. She said there are other attorneys. DeRoche said he understands that. But we, as a group, haven't been dealing with this forever. Dalagher said, "We have given you information to take this seriously so that something actually does get resolved once and for all." Voss said your statements tonight and the other statements are what he considers the beginning to another step in this. 2004 there was an Interim Use Permit issued for one year. He said the meeting last fall, which he is sorry he wasn't at, which was for actually something different. Voss said and this became part of it, so it wasn't official, but we took notice. And now we are here again tonight. He said he appreciates your frustration; it is not that Council is stonewalling; this is going to be another step in the process.

Dalagher said she will leave you with another fun thought. "Say you lived at the back of that property and you have people that backed up to that property before he [Hoppe] ever came. Their property has dropped 50/60% in the last of couple years. Do you think they could even sell their property with that there?"

Moegerle asked the City Attorney to help [Council] with the issue of enforcement of the Noise Ordinance. "Because noise seems to be the primary concern and how difficult is [the order] to enforce? [She] had asked Davis to get some patrols along there to document and so far we haven't. What is involved with this for the city?" Vierling said "It is like any other ordinance-based violation. If the city receives written notice from residents or neighbors that there is a violation of the ordinance, or we have our police officers that observe it, we can tag those and go forward based upon those terms and whether or not a misdemeanor violation has occurred. Everything we do is based upon a complaint from a citizen or a report from one of our police officers."

Hoppe said "And you guys that say you didn't know about this?" The day he sold his building he came in to the Council at a meeting and said he would be moving his stuff to his home and would be buying a building. He said that he would be buying in East Bethel or trying to build in East Bethel. Hoppe said it took him six months (he applied in April) to get a building permit for his cabinet shop. DeRoche said he remembers a conversation last October and you were frustrated about the sewer and water project because you were going to have X amount of ERUs with your building and that you were going to move out of that area. Hoppe said he came in (and you can look it up in the minutes in April) and said he sold his building and he was going to be moving his equipment to his home and would be looking to either buy or build in East Bethel. And he asked to put an addition on the cabinet shop at that time, but was told it didn't meet the zoning because the past council zoned it residential. Moegerle said "That is why we did that Comprehensive Plan Amendment. We are putting you back to commercial." Hoppe said "It took me 6 months and \$1,500 to get to a variance at that point. [He] can't store anything at the cabinet shop because Ordinance 137B says 'No outside storage.' Moegerle asked "Is there a possibility for outside storage?" Hoppe said he doesn't store his stuff outside anyways, but for them to say he is bullying, he has been upfront with

you people from day one.

Tom Ronning of 20941 Taylor Street NE said he wanted to ask questions about the sewer and water. He has been following this project for roughly 6 years. He said he thinks we are about eleven months into the project and there should be some answers to some of these questions now. Ronning said personally he has spoke in opposition to this project and has watched numerous others speak in opposition as well. "During this time we have asked about our obligations to this project and what is it going to cost us. About September 2009 we kept getting the answer: Don't worry. Don't worry. Don't worry." He said so he could see something coming. So he asked, "What is the most it will cost us if we do not connect?" Ronning said he got some surprised looks and was told it wouldn't cost us anything. Mayor Hunter was consistent in his answers with at least dozens of us and told us, "If you don't want it, you won't get it and if you don't connect you will have no cost." It is his [Ronning's] recollection that there was a citizen in here one night that asked about the obligation of the council to get approval from the taxpayers and believes the Mayor asked the attorney at the time; "What is the answer?" [The Attorney] said, "The council can do anything it wants."

Ronning said, "Mayor Hunter assured me and numerous others many times that this would not cost us anything if we didn't want it. But when you look at the bond issue, these are general obligation bonds. And most people don't understand this: if there is a monetary default that goes on us. I am going to pay. You are going to pay. Everybody out there is going to pay. Anybody out there is going to pay it." Ronning said, "In [his] opinion, this is beyond misrepresentation. They have been willfully and deliberately lied to for years now. At the time this was started we had about a 3.5 million of bond issue that we owed and then we took on 18 million or so dollars in addition to that. The lame duck session, in November/December 2010 hurried this bond issue through and hurried the contract assignments. Rush. Rush. Rush. And forget what anybody else thinks or wants. Forget that we all voted against three members. Mayor Greg Hunter, Council Members Kathy Paavola, Steve Voss, Bill Boyer and Steve Channer ran this through unanimously. Regardless of what any of us said."

Ronning said he has some questions too, please. "What is the city tax revenue for 2011 and what is budgeted for 2012?" (Ronning said he doesn't know if he will get answers to these as we go or what.) "What have we paid to date for construction and is anything completing ahead of schedule or on schedule? What are the foreseeable payment obligations for the next 3-5 and beyond years?" Lawrence said, "Unfortunately most of these questions you are asking will only be forecasted. We can't give you an actual answer. It is just an outlook. We don't know." Ronning said, "That is understandable." Davis said, "As far as tax revenues go, we are looking at 1.7 million. Revenues for 2012 are approximately \$176,000 less than for 2011. Construction costs to date (he has a very, very rough figure.)" Jochum said, "It is \$5,768,869 approximately." Davis said as far as the construction schedule, approximately 53% of the pipe has been laid and the project may be a little behind schedule but he will reserve comment on that.

Ronning asked, "What will we owe to repay bonds in the next 3-5 years and beyond?" Davis said, "We know what the payments are; we don't know what the revenues are. The bond payment we have scheduled for this year is \$798,904, for 2013, 2014 and 2015 it is \$708,388. In 2016, the payment is \$1,493,388 and the reason that jumps up is there is a Schedule C bond that half is due in 2016 and half is due in 2017. But these bonds can be refinanced." Moegerle said, "At an additional cost to us. Is that correct?" Davis said, "Yes, at an additional cost to us to refinance it."

Ronning asked, "What are our commitments to the Met Council with this?" He said he hasn't heard or seen anything about this since this started. Davis said, "They have a schedule set up that requires us to generate X number of SAC or ERU connections per year. [He thinks] the first year is 100 and then [he thinks] it goes up correspondingly 10% each year. Up through the 20 year plan of the bond payout." Lawrence said, "We have a complete plan of that and can get that to you." Ronning asked, "What are our plans to meet the obligation?" Davis said, "Our plans are to be extremely attractive to development. We have done several things to put the mechanisms in place to make [East Bethel] more attractive for businesses. We are currently working with one prospect and hope to have some type of announcement in the next 4 to 6 weeks. We are using every means we have to get as many hook-ups as possible." Ronning said he doesn't doubt that you are and he hopes that you are successful and he is sure that every one that is watching this also hopes you are successful.

Ronning said, "Maintenance and manpower. Is there an estimate of maintenance and manpower needed?" Davis said, "Maintenance on the system, initially, will be minimal since there will be very few customers. That is something we will have to wait and see. We will have to project. That will be part of the rate schedule we try to develop. Here again, you have to have X number of customers and X number of dollars to meet the maintenance and operation." Ronning asked, "If you have two customers compared to if you had 100 customers, does one get 50% and the other get 50%?" Davis said, "It doesn't work that way. This just puts more pressure on the City to get more customers for a bigger base to spread those costs over a larger number of customers." Ronning asked, "What is the anticipated break even or positive cash flow of this system? In the best case scenario?" Davis said, "That we would have to look up because there are so many scenarios with so many different projections and they are all based on the number of connections per year." Ronning asked, "Just as an opinion, do you think we have a glimmer of hope?" Davis said yes, he does or he wouldn't be sitting up here.

Ronning asked, "What is the interest obligation on the bonds? What are we paying when they are due?" Davis said he would have to check and see what rates we are paying on those. He said, "They are at a very attractive interest rate, plus there is also a federal credit on two of them that allows us to get a lower payback on them." Davis said he would have to check them to see what the rate is current. Ronning said, "Thank you for your time and input and answers."

Joshua Sturman of 226 Elm Road said he wanted to keep you in the loop regarding a proposal he was putting together for the Coon Lake Improvement Association (CLIA). "There is a DNR grant program where they offer matching funds for a public awareness program. You put out information and CLIA has approved matching funds up to the maximum of the DNR grant which is \$7,500. This wouldn't be an immediate budget concern of the City. He recently spoke with Kathy Paavola, President of the Coon Lake Community & Senior Center. She was in support of it; also the owners of the Coon Lake Market as a bait shop. [This] was one of the DNR requirements; that you talk with your bait shops to get the information out.

Sturman said, "The biggest concern is to prevent the intervention of zebra mussels which have kind of taken over Lake Minnetonka. And the amount of traffic that we get into Coon Lake (just from around the general metropolitan area), once they get in, there is no way of getting them out. This is a way to put some real solid boots on the ground helping people to know what to look for and to actually inspect them. As part of this grant funding to work (they have two different pay scales) [the work would be done] for \$12 an hour and CLIA was okay with paying that.

Sturman said he is looking for Council to address the enforceability of some of these inspection regulations. "What we would actually be able to do if people are violating them? If they are just dumping in the lake without passing through the wash areas? Just something simple that says: This is a City Ordinance. So we can get on the radio and the sheriff's or the DNR and tell them; 'We have people that are not complying.' Otherwise, this would be a voluntary process." DeRoche said he has been trying to do this for 30 years because he lives on Coon Lake. What he was told was because in the old days someone would inspect trailers and vehicles when they came in and out. He said for some reason they did away with that program. Then when the CLIA started charging all the homeowners \$300 a lot we asked "Why don't you put people out there then?" and they said, "Because it is a county park they can't." DeRoche said he doesn't quite understand that, if the lake is in jeopardy, because of Milfoil and Curly Leaf. He said, "And you are right, the zebra mussels are pretty much dominating everything," but as a City he doesn't think we can do that. He thinks it has to be a DNR thing. Somebody can probably call the recreational deputy and say, 'We are having some violations,' and write down the license number.

Sturman said, "You are pretty much right. As far as the CLID, they pretty much have the same authority as the City or state. They are a taxing authority. The accesses, [he] believes the one on the north side is owned by the state. The one on the east side is part of the county park and the other little accesses around the lake are not really regulated by anybody. That would be where the Coon Lake Community & Senior Center would come in. This is a program that is in cooperation with the DNR, which would contribute to the north side one, and, as a political subdivision, Coon Lake Improvement District (CLID) in collaboration with the county would do a monitoring program. It is just a matter of getting everyone together and who is going to fund it." DeRoche said he was also told they were going to limit the bass tournaments out there. He has gone over there and not been able to launch his own boat because of the parking over there. He said he has taken pictures of milfoil on people's trailers and no one did anything about it.

Voss said maybe something you want to look into is the DNR is starting monitoring on certain lakes. There is obviously cost associated with it, would be helpful to know the costs. Sturman said, "There are two different programs. One is just public awareness and the other is where you have to be certified." Moegerle asked if he could get the application and more information. "Then we would be able to address this in a more informed way. And, maybe, process it through our attorney, so we could have a more informed opinion for you on what we want to do to go forward." Sturman said he was just in the process of filling it out. CLIA wanted him to turn it in to them yesterday so they could review it before he submitted it to the DNR. He said there is just an area on there that indicates cooperating organizations so he listed CLID, SRWMO, and he was throwing this out there to see if he could put the City of East Bethel on there. Voss said as our largest natural resource in the City he would think the City would be supportive of doing what we can. Moegerle said, "Certainly in general. It is the financials we would have to look at in more details before we make a commitment. But absolutely." Voss said for the City as well, there is in kind contribution. DeRoche said there are monitor tubes out there. About 25 of them.

Ronning asked, "Along Hwy. 65 is S.R. Weidema doing the digging?" Lawrence said yes. Ronning said, "They seem to have taken a month or so off, everything is parked over there. Are we on schedule?" Voss said, "They are working today." Ronning said, "They were working Monday morning. They had all the lights on, trying to catch something up. Have you been informed yet that there is a dip at the north digging point and do they have a fix for that?" Davis said, "We were informed of that. It is a MnDOT issue. They will have to take that up with them. They will be responsible for it." Ronning said, "As much as my grumbling

sounds like grumbling, we are all in the same damn boat. And if this thing sinks, it is going to cost us a fortune. [He] thought it was irresponsible when it was done, and [he] hopes it doesn't cost us what he is afraid it will." Voss asked the dip on 65, is that where the jacking point was or is that where every year there is a dip? Davis said, "It may be a coincidence but, it is where the bore was done."

Troy Parker from Fatboys Bar and Grill asked, "When does the bond payment go up to a 1.5 million?" Davis said, "2016." Troy said he is on the mailing list for the City and when he sees taxes are going up, he wakes up. He asked, "So are we at 'Build it and they will come'? You said you have projects that might have some interest." Davis said, "We are working on that constantly." Parker said he thought he saw something on this. "That you hired somebody to go out and do this, to bring businesses to the community. Is that a city position or a consultant?" Davis said, "We hired a marketing and branding consultant and will be following a basic plan to find businesses that are suitable for East Bethel. They will be able to advise us in ways that we probably haven't considered, directions to go. But, in the meantime, we are going to follow the basic plan that is in place to contact businesses, work with county and work with the state." Parker asked, "Who is doing that now?" Davis said, "Council members, myself, and the City Planner." Parker said, "It has been a while since anything has been built out here." Davis said, "It has. And one of the reasons is probably the lack of services. We have had a lot of interest and a lot of inquiries since this project has been started. So [he] thinks that is a positive sign." Parker said, "The first 500 cheeseburgers he sells a month pay his taxes. Are you looking for big boxes?" Davis said, "We are looking for anything that is suitable for East Bethel and that we think will be positive for the community. Not to say we are going to be real picky and exclude anybody. The consultant will come up with strong recommendations to attract businesses and [he] feels like it will be a very worthwhile product to give us some additional guidance to attract businesses."

There were no more comments so the Public Forum was closed.

Lawrence said we have a survey that we are looking for residents, businesses and visitors to fill out. It is on the front page of the website. If you don't have a computer, call City Hall at 763-367-7840.

Consent
Agenda

Boyer made motion to approve the Consent Agenda as amended including: A) Approve Bills; B) Meeting Minutes, January 18, 2012, Regular Meeting; C) Resolution 2012-15 Amending the Fee Schedule; D) Appoint Fire Fighters; E) Completion of Probation of Fire Fighters; F) GRE Mediation Representatives; G) Resolution 2012-16 Approving an Application with No Waiting Period for An Exempt Period for Cedar Creek Community School PTO to Hold a Raffle. DeRoche seconded; all in favor, motion carries.

Linda
Gutzkow –
IUP
Amendment –
20825 Tyler
Street NE

Davis explained that Ms. Gutzkow is requesting an amendment to her IUP to expand her home occupation. In 2006, an IUP was approved to allow an FDA approved electrology business known as "Linda Gutzkow's Permanent Cosmetics." Ms. Gutzkow would like to include the following services as part of the home occupation: teeth whitening, facial sculpting, permanent makeup (eyebrows, eyeliner, eyeshadow, lips), and micropigmentation.

Currently, Ms. Gutzkow practices permanent cosmetics at two spa locations (Andover and Crystal), and performs electrolysis from her residence. She is licensed by the Department of Health, so she is able to provide the services. Staff has received updated copies of the licenses. In order to perform permanent cosmetics from the residence, Ms. Gutzkow must obtain a license from Anoka County Community Health and Environmental Services

Department. Ms. Gutzkow has applied for the license and staff has been in contact with Mr. Daniel Disrud regarding the license. Ms. Gutzkow is working with Anoka County to address the concerns that need to be addressed and must submit an approved license prior to performing services.

The hours of operation are Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm. The duration of the treatments last between 15 minutes to 2 hours.

Parking needs generated from the home occupation shall be provided on-site, in the designated driveway.

Planning Commission recommends approval to the City Council of an amendment to the IUP for a home occupation to include permanent cosmetics applied to the face, teeth whitening, and facial treatments for Linda Gutzkow (d.b.a. Linda Gutzkow's Permanent Cosmetics), located at 20825 Tyler Street NE, PIN 183323410033, with the conditions as listed in your packet.

DeRoche made a motion to approve the request of Linda Gutzkow dba: Linda Gutzkow's Permanent Cosmetics for an additional Interim Use Permit located at 20825 Tyler Street NE (PIN 18 33 23 41 0033) with the following conditions: 1) Home Occupation shall meet standards in East Bethel City Code, Appendix A, Zoning, Section 10.19 Home Occupations; 2) The IUP excludes body art tattooing and piercings; 3) The IUP includes electrolysis, permanent cosmetics applied to the facial area (eyebrows, eyes, cheeks, and lips), teeth whitening, and facial treatments. Other services, not covered, require an amendment to the IUP; 4) Hours of operation will be Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm; 5) Client parking must be on the residence driveway; 6) IUP must be executed prior to performing cosmetic services; 7) Property owner/Applicant must submit copy of certification from the American Institute of Education and required permit from Anoka County Community Health and Environmental Services Department prior to performing cosmetic services; 8) Violations of conditions and City Ordinances will result in the revocation of the IUP. Boyer seconded.

Moegerle said, "At Planning Commission you indicated that you were not working forty hours at this business." Gutzkow said, "Correct." Moegerle asked, "And you indicated that at some point you might consolidate your business to this location?" Gutzkow said it depends on whether she gets approved by the county to do the permanent makeup at that location. If she gets a permit from the city then the rest of that will get submitted to the county and then they come out and do an inspection. This is new territory. They have not approved this type of work in a residence so far, so she can't really answer that. Gutzkow said if she gets approved she is likely to drop the Andover location, if she doesn't get approved, she has to have some place to work. Lawrence asked, "How many people will be working with you?" Gutzkow said just herself. Moegerle asked, "How often do these get rechecked and renewed?" Davis said, "It can have any term you want put on it." Gutzkow said she tracked the amount of traffic coming in and out and there was a total of 23.25 hours where there were business cars in her driveway. It does not affect the street a lot. She went around and did a survey. Got 8 back and all were positive. Gutzkow said a big reason for asking to have business in one location: it is tough to provide part of your services in one spot and part of your services in another spot. She said also when she works in Salons she has to make sure she has everything coordinated. It ends up to be a lot of work. It has gotten to be a little bit difficult and time consuming.

Boyer said he would like to amend this to have the two IUPs run concurrent. Voss said he was looking at the IUP and it has run out, but it is being reviewed by staff. Lawrence asked do you have a neighbor here? Neighbor said he is all for it. Moegerle said she reviewed [Gutzkow's] website and she liked what [Gutzkow] is doing with people with chemotherapy. DeRoche asked, "Do you plan on adding someone on to work with you?" Gutzkow said no, she hopes to not have to. She wants to be busy enough to work part-time and take care of her family. **DeRoche accepted the amendment. Boyer seconded the amendment. Boyer, DeRoche, Lawrence and Moegerle, aye. Voss abstained.** Voss said the amendment made it sound like there are two IUPs. He said there is no expiration on the IUP, so until it is removed there is no expiration on it. Moegerle said, "Yes. We see an annual review and then a biannual review under the conditions of the permit." Voss said, "This is just adding onto the conditions of the IUP, it is not a new IUP. He said he didn't vote, because he doesn't want to do anything procedurally wrong and have it come back to us. Vierling said, "With the amendment to the motion, the amendment was to run the two IUPs concurrent, thinking that there were two IUPs. If we want to have just a motion to approve the IUP as presented tonight, for the record, he thinks that is fine."

Boyer made a motion to approve the request of Linda Gutzkow d/b/a Linda Gutzkow's Permanent Cosmetics to amend the Interim Use Permit located at 20825 Tyler Street NE (PIN 18 33 23 41 0033) with the following conditions: 1) Home occupation shall meet standards in East Bethel City Code, Appendix A, Zoning, Section 10.19 Home Occupations; 2) The IUP excludes body art tattooing and piercings; 3) The IUP includes electrolysis, permanent cosmetics applied to the facial area (eyebrows, eyes, cheeks, and lips), teeth whitening, and facial treatments. Other services not covered require an amendment to the IUP; 4) Hours of operation will be Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm; 5) Client parking must be on the residence driveway; 6) IUP must be executed prior to performing cosmetic services; 7) Property owner/Applicant must submit copy of certification from the American Institute of Education and required permit from Anoka County Community Health and Environmental Services Department prior to performing cosmetic services; 8) Violations of conditions and city ordinances will result in the revocation of the IUP. DeRoche seconded; all in favor, motion carries.

Motor Vehicle
Sales – Ryan
DiMuzio &
Jordan Valder
– 18803 Hwy.
65 NE

Davis explained Ham Lake Motors has an active Motor Vehicle Dealer's License from the state, however, it has not operated an open sales lot in East Bethel for at least the last three years. Since City Code does not allow this type of use, an Open Sales Lot is considered nonconforming. City Code Appendix A, Zoning, Section 5.2 states that "nonconforming uses may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless the nonconforming use or occupancy is discontinued for a period of more than one year." This language is in conformance with Minn. Statute 462.357, Subd.1e. Nonconformities.

The only possible way for an Open Sales Lot to operate from the property would be with a Zoning Text Amendment to allow this type of use in the B3 – Highway Business district. Staff has approached the City Attorney asking for options to address the issue. The City Attorney stated that the City Council could amend the Zoning Code to allow an interim conditional use permit for such uses that would terminate as the property is transitioning to another use and to put a timeframe on the permit. Zoning Text Amendments require the formal process of a public hearing at Planning Commission and approval of City Council. The process is typically 8 – 12 weeks.

This particular issue has been in discussion among Staff and the tenants of the property since fall 2011. In September of 2011, staff sent a letter to the property owner, Tim Chies. The letter explained the Zoning Text Amendment (ZTA) process. Mr. Chies, being the property owner, could apply for a ZTA. Staff recommended he submit a letter to the City Administrator with the request. Staff has not had contact with Mr. Chies.

Mr. DiMuzio would like to present his proposal of operating an open sales lot at 18803 Highway 65. Again, an Open Sale Lot would only be allowed with an approved ZTA and permit.

This item was presented at the January 24, 2012 Planning Commission meeting; at which time the Planning Commission made a recommendation to City Council to direct staff to move forward with a Zoning Text Amendment to amend the B3 – Highway Business District to allow open sales lots with an Interim Conditional Use Permit.

Planning Commission has some concerns such as limiting the number of automobiles on the lot. If directed to continue with the ZTA, staff will work with the City Attorney on the amendment language and to address the concerns. If directed to continue, staff plans to have a draft for review at the February 28, 2012 Planning Commission meeting.

Staff and Planning Commission have the following requests:

A request to allow Mr. DiMuzio and Mr. Valder to present their concept for an open sales lot at 18803 Highway 65, East Bethel, and Planning Commission requests City Council direct staff to move forward with a Zoning Text Amendment to amend the B3 – Highway Business District to allow open sales lots as an Interim Conditional Use Permit.

DiMuzio said, “We do understand that the property will be sold when the City moves forward.” Moegerle said, “You made a presentation to the Planning Commission on what you are anticipating. Can you repeat that here?” DiMuzio said, “It is not going to be an Open Sales Lot. We are a broker, get the vehicles for people. So it looks like a regular store. Unfortunately, we have to float some of these, so we might have up to 20 vehicles on the lot. But it is a regular store, trying to get away from the used car lot image. Not open to 9:00 p.m. Sign can be inside. We need to differentiate between the businesses.” Voss asked, “Are you planning on having signage on highway?” DiMuzio said, “We just need an address sign, to make it seem more professional. We have revamped it on the inside.” Davis said staff met with Ryan and Jordan and discussed this possibility. “We did discuss that this property is in the sewer district and will probably have a higher use or value in the future. So we explained that we would probably put a specific time limit on this or when the property is sold it would go away. That way, if there were other uses for that property that were more beneficial in terms of our sewer project, they would be able to proceed along those lines.”

Boyer asked, “Was a building permit pulled on the improvements? Did staff inspect the improvements?” He said because in the past there have been issues with this building with the Fire Marshall. Moegerle said, “The City Planner did go through this building and she has been through there also.” Davis said, “He would have to check on that.” DiMuzio said, “We had a certified electrician come in and redo the wiring. We have done quite a bit of work on it.” DiMuzio said, “We would like to move to the other side of the highway, to the business district in a pole building and keep all the cars inside.” Voss asked, “So this is a new endeavor? And you would be utilizing a property that is underused right now, but that would have a different use in the future. What kind of time frame or period of IUP would you be

comfortable with? And more importantly, what kind of transition period would you need, as a business, if the city decides at some point it is time for a different use for this property? How much time would you need?" DiMuzio said, "We could be out in 60 days." Voss said because if there is a way to keep you in the city we would like to do that. DiMuzio said, "We do have plans. We have talked to others that lease space because we just found out that we are looking at maybe a one or two year window. And we are at the Council's mercy. If we just have an opportunity to recoup the money that we put into the building so we can stay in business to provide for our families and then move forward, that is all we are asking.

Moegerle said, "You might also advise council of your respective experience in car sales." DiMuzio said he has 14 years with the Luther Group as a manager, 5 years as a salesman. Lawrence asked, "A Zoning Text Amendment, would this open it up to all categories, all businesses under the B-3 zone?" Davis said, "That is correct." Lawrence asked, "Do they all have to have an IUP to get the license to operate?" Davis said, "No, if we did a Zoning Text Amendment, then it would allow Open Sales Car Lots." Voss said it would be a permitted use. He said we don't have a zoning map in front of us to understand the effects of this. Davis explained where B-3 zoning is. Boyer said he thinks everything south of Klondike is B-3.

Moegerle said, "In our zoning ordinance we don't allow open car lot sales. So can they request a variance or is the Zoning Text Amendment their only alternative?" Vierling said, "There is no variance from a prohibited use. You can't vary from uses, you can vary from dimensional requirements." DiMuzio said, "A brighter note is for the area we are talking about is we know it is all filled up. A conventional car lot wants to be right along the Highway, so there is not a spot left to put it." Voss said, "It seemed that the point here, was it was a non-conforming use and it hadn't been used for more than a period of a year, at least in the staff write up that is what it says, state statute." Vierling said, "It was both a common provision in the state statute and your ordinance with regard to discontinuance of that use, once it has gone dormant for over a year, that use is gone." Voss said, "Given what we have gone through in the economy, can the City change that to a longer period? Vierling said, "But we can't make it effective to a prior date." Moegerle asked, "If we make a Zoning Text Amendment, can we later vacate it?" Vierling said, "You can always amend your Zoning Code, but property rights do accrue. Even though you would choose to amend, delete or modify your Zoning Code with regard to a permitted use in an area, to say make it non-permitted in an area, you could not take away the real estate rights that had been acquired by people that were in place."

Davis asked, "What amount of outside storage space would you require?" DiMuzio said, "Just enough room for what we handed out to you. And we do park a maximum two cars out back." Moegerle asked, "Can we say internet sales?" Vierling said, "You ultimately have car sales." Voss said, "The purpose is not to sell cars, it is the product. This is wholesale, not retail." Vierling said, "It is retail, because the sale hasn't happened until the customer comes in and makes a payment." Boyer asked, "If we tabled this for two weeks would it really be a big deal for you?" Valder said his license expires next month in Spring Lake Park and he doesn't really want to renew it there because then he would have to get in a lease with that guy and he is already in a lease with this guy. Boyer said he is saying for two weeks. Valder said, "That is fine."

Voss made a motion to table the Zoning Text Amendment to amend the B3 – Highway Business District to allow open sales lots to allow staff to work with the applicants to find a create alternative to the Zoning Text Amendment with the understanding of the consequences that could happen for two weeks. Moegerle seconded; all in favor, motion

carries.

Pay Est. #9,
S.R.
Weidema,
Project 1,
Utilities

Jochum explained that attached is a copy of Pay Estimate #9 to S.R. Weidema for the construction of the Phase 1, Project 1 Utility Improvements. The major pay items for this pay request include sanitary sewer construction along TH 65 and sewer and water lateral construction under TH 65. Two separate payments will be made. One payment will be to S.R. Weidema and the other will be to the escrow account established at TCF Bank. We recommend partial payment of \$37,264.52. A summary of the recommended payment breakdown is as follows:

Contractor Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$3,348,815.56	\$3,324,841.78	\$23,973.79
City	\$2,420,053.76	\$2,408,626.26	\$11,427.50
Total	\$5,768,869.32	\$5,733,468.03	\$35,401.29

Escrow Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$176,253.45	\$174,991.67	\$1,261.78
City	\$127,371.25	\$126,769.80	\$601.45
Total	\$303,624.70	\$301,761.47	\$1,863.23

This estimate includes payment of \$35,401.29 to S.R. Weidema and \$1,863.23 to the escrow account for a total of \$37,264.52. Payment for this project will be financed from the bond proceeds. Funds, as noted above, are available and appropriate for this project.

Staff recommends Council consider approval of Pay Estimate #9 in the amount of \$35,401.29 to S.R. Weidema and \$1,863.23 to the TCF Bank escrow account for the Phase 1, Project 1 Utility Improvements.

DeRoche made a motion to approve Pay Estimate #9 in the amount of \$35,401.29 to S.R. Weidema and \$1,863.23 to the TCF Bank escrow account for the Phase 1, Project 1 Utility Improvements. Boyer seconded; all in favor, motion carries.

2012 Joint
Powers
Agreement
Street
Maintenance
Program

Davis explained that the Cities of Coon Rapids, Andover, Brooklyn Center, Columbia Heights and Fridley entered into a Joint Powers Agreement on February 1, 2005 for the purpose of joint bidding for certain street maintenance services. This Joint Powers Agreement allows smaller cities to achieve more economies of scale in the bidding process and potentially achieve lower bids from contractors for crack sealing, seal coating and striping. The City East Bethel joined the group in February, 2008.

The City of Coon Rapids is the lead agency by the agreement for this group. As the lead agency, they draft the specifications, solicit bids and provide the necessary documents for member cities to sign to participate in the program. The agreement is structured such that it permits each member city to accept or reject the bids for their portion of the proposed contract. Each city will pay the contractor directly for their share of the work and contracts will be awarded separately for the various items.

The process is as follows:

- 1) The City of East Bethel submits the quantities for crack sealing, seal coating and

- striping to the City of Coon Rapids for inclusion in the collective bid.
- 2) The City of Coon Rapids develops all bid specifications and solicits bids for all quantities submitted by member cities. Bid specifications follow MnDOT guidelines requirements.
 - 3) Each City may modify the quantities they have submitted to maintain budgets for these projects after the low bid has been identified.
 - 4) Bids for these projects will be opened on March 2, 2012. The City of East Bethel is required to submit a letter of concurrence to the City of Coon Rapids by March 22, 2012 authorizing the City's level of participation in the program for 2012. The bid award date will be April 3, 2012.

The City of East Bethel realized savings of at least 20% over previous costs for these services through participation in the JPA Street Maintenance program. The savings were due to the pricing in the current construction market and the larger base of purchasing power afforded by the group bid.

The following projects are recommended to bid as part of the 2012 JPA Street Maintenance program. These projects have been identified in the 2012 Street Capital Improvement Plan (CIP) and recommended by the Roads Commission.

1. Seal coat and crack seal Hupp St, 239th Ave, 231st LN, 233 Ave, Erskine St, Kissel St, 234th LN, Isetta St, 224th Ave.
2. Crack-seal 150,000 LF as part of the annual street maintenance program. Crack sealing will be performed prior to any seal coating applications.
3. Stripe 60,000 LF of striping on University, Briarwood, Palisade, and other roads to be determined.

Bidding the item does not obligate the City to accept the bid. The bid for individual items can be rejected or amended as to quantities to accommodate the project budget.

The estimate for seal coating and crack sealing the above listed streets is \$191,377. These projects will be funded from the Street Capital Fund as identified the 2012-2016 Capital Improvement Plan.

Staff recommends the approval of these projects to be bid as part of the City's JPA Street Maintenance Agreement. Bids for the work will be presented to City Council for final approval at the March 20, 2012 meeting.

Boyer made a motion to approve the 2012 Joint Powers Agreement Street Maintenance Program. Lawrence seconded; all in favor, motion carries.

Boyer said he is curious; what was the Road Commission rationale for not continuing the farthest northern 1/3 of Durant Street. He asked, "Was that done at a different time?" Connects to Erskine. Davis said, "That section of Durant to 229th north to the dirt road to Cedar Creek was done two years ago." Boyer asked, "Is this the same program we have been doing the last couple years?" Davis said, "That is correct."

Chief DuCharme said in 2011 the East Bethel Fire Department responded to 521 calls, a slight decrease from 2010. He said well over half of the emergency calls are medical related. "One of the reasons we did not have an increase of calls was a wet spring and summer and lack of increase in wild land fires. Right now DNR is talking to fire departments and not sure how much support they will be able to give us because of conditions. [He] included a list of all calls. One of things [he] did want to let you know is we do track calls, and we do grids in the city. That way we know where we are providing services in the city. Surprisingly, the higher the density in the area, the higher services we provide." He has also included a map on how those are laid out and some data that goes with that. Chief DuCharme said, "Not surprisingly, our busy hours are from 4:00 p.m. to 8:00 p.m. and Tuesday, Fridays and Saturdays are our busiest days. He said and when you look at the whole year, July and August are our busiest months when the heavy storms came through."

Chief DuCharme said illegal burns are big issues and he will be bringing that up to Council member DeRoche. We had a fire loss in 2011 of \$350,000, which is pretty good. Moegerle asked, "The total personal property loss was \$350,000? Because you say that is good." Chief DuCharme said, "Yes, it is relatively speaking. Some departments have millions. We have fire fighters that do a lot of training, and a lot of this is non-paid hours. We have on average about 195 hours of paid time a year and non-paid hours, 126 hour per year. So average pay is about \$6.26 per hour when you figure that out. We do have a fire safety inspection program. We have a very part time fire inspector, Mark Duchene who does the fire inspections. Of the 110 businesses that the fire department has to inspect, he did 75 of them, 45 of them he did in one inspection, 25 had two inspection and handful three or more times. So, all together, he did about 110 inspections, working about 4 hours a week. And the last page is our seniority list. [I] want Council to be aware our fire fighters are vested at 10 years and about half of our Department is vested and two of our fire fighters will have 30 years this year."

DeRoche asked, "Are those fire inspection violations, are most of them just blocking fire exits and those types of things?" Chief DuCharme said, "Yes, or fire extinguishers, etc. Businesses we don't go to are the home based businesses because we really don't have that database, nor do we have the manpower (the way we are organized)." DeRoche asked, "Are there friendly reminders when these violations are found?" Chief DuCharme said, "Yes. They are mailed a notice and mandatory compliance." DeRoche asked, "If you keep going back and back and it is the same violation, are they issued a citation?" Chief DuCharme said, "They could be, if we have an issue where they are not coming in compliance." DeRoche asked, "Do most of these buildings have the alarms up in the ceilings?" Chief DuCharme said a lot of them do. And a lot of them are monitored. DeRoche asked, "Is this required in any commercial structure?" Chief DuCharme said, "Not necessarily, it depends on square footage, structure and occupancy."

Moegerle said she saw you have couple of animal rescues on here; "Do you still rescue cats in trees?" DuCharme said those are actually dogs. Moegerle said she did an eight minute cut off on response times. 8B, C and D, and 1B, C and D, in Coon Lake Beach [we have longer response times]. How do we address the longer response times? We have a fire barn at Coon Lake Beach but it is not manned at this time. Chief DuCharme said, "Our goal for the coming year is that is where our focus for recruiting will be. We want to make sure that station is properly staffed so that responses are adequate." Moegerle asked, "Because the large amount of calls are EMS issues, should we have an ambulance out here in the City to relieve the stress on you doing that?" Chief DuCharme said, "That comes down to community values and services. We think that the EMS business we provide a good service to the people, we

also assist our sheriff deputies and Allina having our patient packaged and ready to go, a quicker response. Don't think our relationship between the Sheriff, Allina and ourselves has never been better."

Boyer asked the chart says hazardous conditions, no fire. He assumes those will be weather related. Chief DuCharme said, "It could be, or can be carbon monoxide related." Boyer asked, "Do you have a rough idea what the percentage is weather related or other?" Chief DuCharme said probably 50/50. Boyer asked, "Are you included in these charts? Call pay vs. hours?" Chief DuCharme said no.

Voss said earlier this year we had a brief discussion of review of the fire rating. He asked have we done anything on that. Chief DuCharme said, "We just completed working with Bethel and Oak Grove on their fire rating. As soon as we get the water system on line, that will get us a lot more water." Voss asked, "So that will help us get our rating reduced?" Chief DuCharme said, "It will be a split rating 5/7." Voss said we had asked that previously. Chief DuCharme said, "They do split that now. Not all insurance companies use ISO for ratings. He takes a dozen calls a week from insurance companies. Questions are all the same."

Review City
Code Chapter
6. Alcoholic
Beverages

Davis explained that per Council direction, staff was instructed to review Article IV, Section 6-93 of the above ordinance, Prohibited Sales and Compliance Checks, and recommend changes to Council that would provide additional discretion in the administration of penalties and fines under the ordinance.

Mr. Vierling's office was also contacted to provide information on why the licensee was charged and not the clerk. He has provided a memo with information tonight. At this time it is staff's recommendation to do a rewrite of the other section of this code.

Moegerle made a motion to table the review of City Code Chapter 6, Alcoholic Beverages. DeRoche seconded. Lawrence asked, "Can you also check on the charges in this." Davis said, "That is also part of what we will be doing with Vierling's review on the other part of this." **All in favor, motion carries.**

City Council
Representatives
for Local 320
Subcommittee
Meeting

Davis explained that staff has conducted four meetings with Mr. Mike O'Donnell, Local 320 Business Agent, to discuss the 2011 Wage Re-Opener for the City's union contract employees. To date there has been no resolution of the matter. Mr. O'Donnell has requested a meeting with two City Council members to continue this discussion.

Staff recommends the designation of two City Council members to meet with Mr. Mike O'Donnell at the East Bethel City Hall at a time to be arranged.

Boyer asked, "What time will the meetings be held?" Davis said he will furnish us some dates and we will arrange some times and it will be arranged at your convenience. Voss said they are not pleased with how it is going with staff, so they want to meet with council (or he assumes this since they want to set up a meeting).

Boyer and DeRoche said they would volunteer. **Moegerle made a motion to designate the finance committee to meet with Mike O'Donnell, Local 320 regarding the wage reopener. Voss seconded; all in favor, motion carries.**

S.R. Weidema
Contract

Davis explained in your packet there is a rather lengthy write-up on this. He said however, there are some things that occurred today that may alter the recommendations of staff. And

due to matters of potential litigation on this, he is recommending we table this part of the write-up and address this in the closed session that is scheduled for later on at the last of the meeting.

DeRoche made a motion to table the S.R. Weidema Contract Extension. Voss seconded. Moegerle asked, "Could we hear the presentation, and then do actions in the closed session?" Vierling said, "You can certainly have presentation here." Moegerle said, "It is the last item we have, and there are quite a few people from the public here and it might be of interest to them." Davis said he has no problem presenting the issue, but any discussion, we should limit it severely. **All in favor, motion carries.**

Davis explained that "S.R. Weidema ceased work on the interceptor pipe installation portion of the Municipal Utilities Project due to soil migration issues being experienced in the section of the project north of 189th Avenue on December 9, 2011. There was no direction given to Weidema by the engineer, MCES or the City to stop work. The decision to stop was made solely on their own."

The issue, that S.R. Weidema based their decision to stop work, was a claim of a design problem associated with the construction methods detailed in the specifications of the contract. The engineer and MCES contend that the specifications and design are appropriate and it is the contractor's responsibility to install the pipe using the necessary means and methods for proper installation and protection of the pipe. The engineer and MCES further contend that pipe has not been installed in accordance with the plans and specifications for the 80' section of pipe and a manhole that is in contention and is located just north of 189th Avenue (this is the only portion of the project that is in question for what has been installed to date.)

The engineer directed S. R. Weidema on December 19, 2011 to resume work on the project, replace the work that is considered defective and be advised that no additional compensation will be paid for this claim (design questions) as the work termination was directed by S.R. Weidema.

Since the issuance of that letter there have been numerous meetings with S.R. Weidema to resolve this matter. S.R. Weidema's request for additional compensation and a time and materials approach for payment for the remainder of the project were reviewed and summarily rejected by the City, MCES and the project engineer. A final letter was sent to S.R. Weidema on January 20, 2012 instructing them to:

- 1.) Promptly proceed with the work in accordance with the Contract Documents;
- 2.) Remove and reinstall the pipe north of manhole 109 and reinstall manhole 110; and
- 3.) Continue to work according to the schedule on all uncompleted work south of manhole 109, along 189th Avenue and all other items as previously identified.

S.R. Weidema returned to work on the project on January 24, 2012.

S.R. Weidema has submitted a change order request to extend the project completion date from July 31, 2012 to June 30, 2013 due to the mild winter weather that has prevented efficient and effective maneuverability of equipment in the swamp section of the project. This project was designed to have the installation of this section completed during a normal winter with deep frost conditions that would allow the operation of heavy equipment on a firm and stable base. The change order reflects no additional increase in the cost of the project. The attached letter from Bolton and Menk indicates that the enclosed Change Order No. 4 does

not include any increased contract amount related to City water main facilities located in the subject area.

Even though S.R. Weidema did not perform any pipe installation work on the interceptor line for approximately 45 days, this delay may not have any material affect on the original completion date of the project. This contract was designed and bid with 2 “normal” winters factored for completion. With these considerations in mind, denial of the time extension request for the change order would be difficult to defend. This opinion is shared by both the project engineer and the MCES.

If the change order is approved the pipe completion date should be much earlier than the June 30, 2013 deadline. The additional time between the pipe and the contract completion date would be needed to finalize the project after the frost goes out of the ground. Activities such as final project cleanup, grading, completion of the service road to the manholes and revegetation would be completed in May and June of 2013.

MCES signed the change order on to grant the extension on January 26, 2012.

There would be no increased costs to the City for the water main portion of the contract if the change order is approved. Any additional cost would be on the sewer portion of the work and this would be borne by MCES, as indicated in previous documentation that was sent to City Council. MCES would re-open discussions regarding the City's responsibility to MCES for payment of the 100 SAC units for 2012, the individual SAC charges of \$3,300 which are to begin in 2012 and the flow requirements that are contractual obligations.

If the change order is approved, our bond cash flow projections would be altered under the assumptions presented in the attachment, Water Sewer Bond Cash Flows Projection 2. These projections reflect a deficit of \$557,092 in 2013 with continuing and increasing deficits throughout the 5 year projection period. Please keep in mind that this cash flow scenario is a conservative estimate of the effect of the delay in the project and varying conditions or changes in the economic development process and/or the economy could substantially change this presentation of conditions.

Other items of potential additional cost to the City would relate to the provision of water service to users in the project area that would require this service prior to the extended project completion date of June 30, 2013. The request for service would have to be analyzed on a case-by-case basis to determine costs for alternative water supplies for a period of up to one year, should connections be required to the system during this time period. Sewer service could still be provided in the area south of 189th Avenue.

One remaining item that must be resolved is the scheduling of the extension of utilities to the water treatment plant. These services are in S.R. Weidema's contract and must be in place to permit the construction and execution of the contract of the water treatment plant. Normally, this would be one of the last segments of the project to be completed, but that is under the condition that the project would have been completed as originally contracted. Under the current circumstances, a time extension will necessitate skipping the order of the normal progression of the line extension to prevent any delays on the City's contract with MBI for the water treatment plant.

Denial of the change order could place the City at risk for additional project time delays, potential increases in project costs, the risks and costs associated with litigation and the

further delay of revenues required for bond payments for the project.

Council
Reports –
DeRoche

DeRoche said there was a slight accident; someone burned their house down. Word he got is someone cleaned their fireplace and the ashes ended up in plastic trash can next to their garage. He said if you are going to clean your fireplace, make sure you know where the hot ashes are going. On Coon Lake there are a lot of people fishing; he doesn't know if he would trust the ice.

Council
Reports -
Moegerle

Moegerle said on Saturday she attended the Leadership Conference put on by the League of Minnesota Cities. The nugget that came from that is: all cities should be focusing on strategic planning for the future. She thinks this is something we need to look at; strategic planning. "Today we had the EDA Kick-Off on Branding and Marketing with Ady Voltedge, with the stakeholders in attendance." She thought that was very beneficial. Moegerle said, "We also started the interviews with stakeholders." She said be sure to complete the survey, "We need 600 people to complete the survey." Moegerle said she visited with the principal at the East Bethel Community School and she needs to visit with the principal from the Cedar Creek Community School. "Also we have the EDA Retreat on Saturday, February 11th. It is a busy, busy time."

Council
Reports –
Voss

Voss said on that survey, we got an e-mail notification this afternoon, and he did immediately. He thinks it was very well written and it was very easy get through and fairly easy to understand what they are asking too. He asked with reference to the stakeholder meetings with Ady Voltedge are there going to be evening meetings. There is no way he can get away from work during the say like that. Davis said no. Moegerle said there will be follow up meeting when it is done. Voss said he cannot make the Park Commission meeting, he will be out of town next week will someone cover for me. DeRoche will cover for him.

Council
Reports –
Boyer

Boyer said he wants to mention the political caucuses are next Tuesday at 7:00 p.m. He said we have more information on the locations at City Hall, and a link on the website. They are at Our Savior's and at the Community School.

Rental Ord.

Davis asked, "Is City Council interested in looking at a rental ordinance?" Council said yes.

Closed
Session –
Project 1,
Utility
Improvements

Vierling explained, "Pursuant to Minnesota Statute 13D.05, Subd. 3, he recommends that Council adjourn to a closed session to review possible litigation for an Attorney/Client discussion of the Project 1, Utility Improvements between the City of East Bethel and Metropolitan Council Environmental Services (MCES) and S.R. Weidema in the matters of contract dispute. When we come back we will summarize any actions taken or motions made during the closed session."

Moegerle made a motion to adjourn to closed session. DeRoche seconded; all in favor, motion carries.

Vierling said, "For the record, the City Council adjourned to closed session to review matters of possible litigation for an Attorney/Client discussion of the Project 1, Utility Improvements between the City of East Bethel and Metropolitan Council Environmental Services (MCES) and S.R. Weidema in the matters of contract dispute. Present were the council; Mayor Lawrence, Council Members Boyer, DeRoche, Lawrence, Moegerle and Voss, Jack Davis, Craig Jochum, Kreg Schmidt and myself. During the course of the meeting the Council was updated by the consulting engineer on the status of the dealings with the contractor on the site, and the Council was provided suggestions and opinions from the engineers and legal

staff with regard to how to proceed. Staff received Council discussion and benefits of their discussions on how they wish to proceed. There were no specific actions taken at the closed session. Staff was instructed to have future discussion with the contractor, Mr. Weidema, and it is expected that this item will be on the next agenda.”

Adjourn

Boyer made a motion to adjourn at 11:07 PM. Moegerle seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk

EAST BETHEL PLANNING COMMISSION MEETING

January 24, 2012

The East Bethel Planning Commission met on January 24, 2012 at 7:00 P.M for their regular meeting at City Hall.

MEMBERS PRESENT: Lorraine Bonin Brian Mundle, Jr. Glenn Terry Lou Cornicelli
Eldon Holmes Tanner Balfany (arrived 7:02)

MEMBERS ABSENT: Joe Pelawa

ALSO PRESENT: Stephanie Hanson, City Planner

Adopt Agenda

Chairperson Terry called the January 24, 2012 meeting to order at 7:00 P.M.

Terry motioned to adopt the January 24, 2012 agenda. Holmes seconded; all in favor, motion carries.

Commission Appointment and Oath of Office

On January 4, 2012, City Council held interviews of interested residents and commission members wishing to continue work for the Planning Commission. City Council appointed the following to the Planning Commission:

1. Eldon Holmes, term expires January 31, 2015
2. Joe Pelawa., term expires January 31, 2015
3. Glenn Terry, term expires January 31, 2015

Each commissioner will be taking an oath of office this evening. Joe Pelawa is absent this evening and will take his oath at the February meeting.

I, Glenn Terry do solemnly swear or affirm that I will support the Constitution of the United States of America and the State of Minnesota, and faithfully discharge the duties as a member of the City of East Bethel Planning Commission in the County of Anoka and the State of Minnesota to the best of my ability. So help me God.

I, Eldon Holmes do solemnly swear or affirm that I will support the Constitution of the United States of America and the State of Minnesota, and faithfully discharge the duties as a member of the City of East Bethel Planning Commission in the County of Anoka and the State of Minnesota to the best of my ability. So help me God.

Elect Chairperson

The Planning Commission is to elect a chairperson from among the appointed members for the term of one (1) year.

East Bethel City Code states that chairpersons shall serve for one year; however, no chairperson shall be elected who has not completed at least one year as a member of the commission. Commission members eligible for chairperson include Bonin, Holmes, and Mundle.

City Staff is requesting Planning Commission elect a member of the commission as chairperson for the term of one (1) year, starting on January 24, 2012 and expiring on December 31, 2012.

Terry stated the sitting chair cannot be elected as chairperson.

Bonin nominated Holmes as Chairperson. Terry seconded it. Discussion ensued. Pelawa stated unless Mundle wanted to do it. Mundle stated he would be interested. The Commission could do ballots. Holmes said shall we make it easy, and he will let Mundle do it. **Motion recanted.**

Balfany motioned to elect Mundle as the Chairperson for the 2012 year. Terry seconded, motion carries, unanimously.

**Public Hearing:
Amendment to****Interim Use Permit -**

A request by applicant, Linda Gutzkow, to amend her Interim Use Permit to expand cosmetic services at 20825 Tyler St. NE, East Bethel.

Linda Gutzkow
20825 Tyler Street NE
East Bethel, MN 55011
PIN 183323410033

Ms. Gutzkow is requesting an amendment to her IUP to expand her home occupation. In 2006, an IUP was approved to allow an FDA approved electrology business known as Linda Gutzkow's Permanent Cosmetics. Ms. Gutzkow would like to include the following services as part of the home occupation: teeth whitening, facial sculpting, permanent makeup (eyebrows, eyeliner, eye shadow, lips), and micro pigmentation.

Currently Ms. Gutzlow practices permanent cosmetics at two (2) spa locations (Andover and Crystal), and performs electrolysis from her residence. She is licensed by the Department of Health so she is able to provide the services. In order to perform permanent cosmetics from the residence, Ms. Gutzkow must obtain a license from Anoka County Community Health and Environmental Services Department. Ms. Gutzkow has applied for the license and staff has been in contact with Mr. Daniel Disrud regarding the license. Ms. Glutzkow is working with Anoka County to address the concerns that need to be addressed.

The hours of operation are Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm. The duration of the treatments last between 15 minutes to 2 hours.

Parking needs generated from the home occupation shall be provided on-site, in the designated driveway.

City Staff is requesting Planning Commission recommend approval to the City Council of an amendment to the IUP for a home occupation to include permanent cosmetics applied to the face, teeth whitening, and facial treatments for Linda Gutzkow (d.b.a. Linda Gutzkow's Permanent Cosmetics), located at 20825 Tyler Street NE, PIN 183323410033, with the following conditions:

1. Home occupation shall meet standards in East Bethel City Code, Appendix A, Zoning, Section 10.19 Home Occupations.
2. The IUP excludes body art tattooing and piercings.
3. The IUP includes electrolysis, permanent cosmetics applied to the facial area (eyebrows, eyes, cheeks, and lips), teeth whitening, and facial treatments. Other services not covered require an amendment to the IUP.
4. Hours of operation will be Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm.
5. Client parking must be on the residence driveway.
6. IUP must be executed prior to performing cosmetic services.
7. Property Owner/Applicant must submit copy of certification from the American Institute of Education and required permit from Anoka County Community Health and Environmental Services Department prior to performing cosmetic services.
8. Violations of conditions and city ordinances will result in the revocation of the IUP.

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

Linda Gutzkow - 20825 Tyler Street - was at the meeting to answer any questions the Commission has.

Holmes asked about the other two locations in Andover and Crystal. She stated she rents space there and she does the same operation at those locations. The one in Crystal is licensed through the state for two more years. The one in Andover is only licensed through April. She explained the licensing has gotten very expensive through the state.

Bonin wondered how her schedule works. She stated she works in Crystal on Thursdays and she works at Andover on different days because it is closer. She also stated after being in business this long, she gets most of business through client referrals and finding her on the Internet, so it is no longer as crucial to be in a spa.

Balfany asked how many come to see her at her home at this time. She stated she has about 3 to 5 clients a week. There is only one client at the house at a time.

She did a survey of the neighborhood, and got the feedback from the neighbors. The surveys were all supportive of her business. She didn't get any negative feedback from the neighborhood. Hanson stated there have not been any complaints from the neighborhood.

Balfany asked how many cars fit in the driveway. She stated at least five. Holmes asked how many people visited her in her commercial locations. She said anywhere between 4 and 6.

Terry asked if the change of licensing fee is the only reason she would be discontinuing service at the other locations. She stated there are other reasons, such as the equipment for electrolysis is very large. In addition to that, scheduling is always challenging at spas.

Mundle asked with the additional services, will there be more area taken up in your house for this. She stated that it will not take up any more room. She stated the sunroom is where she does her services.

Mundle stated with the license you are applying for with Anoka County Community Health. She stated the County is waiting on authorization from the City of East Bethel. Once they get that they will come out and do an inspection. Bonin asked if this is a full time job. She stated this is part-time job, she has four children.

Terry motioned to recommend approval to City Council of an amendment to the IUP for a home occupation to include permanent cosmetics applied to the face, teeth whitening, and facial treatments for Linda Gutzkow (d.b.a. Linda Gutzkow's Permanent Cosmetics), located at 20825 Tyler Street NE, PIN 183323410033, with the following conditions:

- 1. Home occupation shall meet standards in East Bethel City Code, Appendix A, Zoning, Section 10.19 Home Occupations.**
- 2. The IUP excludes body art tattooing and piercings.**
- 3. The IUP includes electrolysis, permanent cosmetics applied to the facial area (eyebrows, eyes, cheeks, and lips), teeth whitening, and facial treatments. Other services not covered require an amendment to the IUP.**
- 4. Hours of operation will be Monday - Friday, 8:00 am - 9:00 pm, and Saturday, 9:00 am - 5:00 pm.**
- 5. Client parking must be on the residence driveway.**
- 6. IUP must be executed prior to performing cosmetic services.**
- 7. Property Owner/Applicant must submit copy of certification from the American Institute of Education and required permit from Anoka County Community Health and Environmental Services Department prior to performing cosmetic services.**
- 8. Violations of conditions and city ordinances will result in the revocation of the IUP.**

Seconded by Bonin; all in favor, motion carries unanimously.

Will be heard at the Wednesday February 1, 2012 City Council meeting.

**Discussion –
Automobile Open
Sales Lots –**

Presentation by Ryan
DiMuzio

Mr. DiMuzio would like to discuss the possibility of operating an open sales lot at the former Ham Lake Motors site located at 18803 Highway 65, East Bethel.

Ham Lake Motors has an active Motor Vehicle Dealer's License from the state; however, it has not operated an open sales lot in East Bethel for at least the last three years. Since city code does not allow this type of use, an open sales lot is considered nonconforming. City code Appendix A, Zoning, Section 5.2 states that "nonconforming uses may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion unless the nonconforming use or occupancy is discontinued for a period of more than one year." This language is in conformance with Minn. Statutes 462.357, Subd.1e. Nonconformities.

The only possible way for an open sales lot to operate from the property would be with a zoning text amendment to allow this type of use in the B3 – Highway Business district. Staff has approached the City Attorney asking for options to address the issue. The City Attorney stated that City Council could amend the zoning code to allow an interim conditional use permit for such uses that would terminate as the property is transitioning to another use and to put a timeframe on the permit. Zoning text amendments require the formal process of a public hearing at Planning Commission and approval of City Council. The process is typically 8 – 12 weeks.

This particular issue has been in discussion among staff and tenants of the property since fall 2011. In September of 2011, staff sent a letter to the property owner, Tim Chies. The letter explained the zoning text amendment (ZTA) process. Mr. Chies, being the property owner, could apply for a ZTA. Staff recommended he submit a letter to Jack Davis, City Administrator, with the request. Staff has not had contact with Mr. Chies.

Mr. DiMuzio would like to present his proposal of operating an open sales lot at 18803 Highway 65. Again, an open sale lot would only be allowed with an approved ZTA and permit.

Staff has the following recommendations and request:

1. Staff recommends Planning Commission allow Mr. DiMuzio to present his proposal of operating an open sales lot at 18803 Highway 65 that will only be permitted with an approved ZTA amendment and permit.
2. Staff recommends Planning Commission discuss the possibility of amending the zoning code to allow an open sales lot in the B3 – Highway Business District as an Interim Conditional Use Permit.

Staff requests Planning Commission make a recommendation to City Council to either give staff direction to move forward with a ZTA to amend the B3 – Highway Business District to allow open sales lots as an Interim Conditional Use Permit, or to make no changes to the zoning code.

Ryan DiMuzio, Jordan and Ryan, talked with Mr. Chies. He said they talked with him and he had stated they could operate the business at his site. So they

leased the facility. They spent a lot of their money redoing the structure and they also understand the property will be zoned differently in the future with the City Center. Their auto sales lot is not about flags and gorillas. It won't be a typical 'stage your car' lot. They are a broker, which means they will go find the vehicle for you and they will bring it to their lot to have the potential purchaser look at the vehicle.

He passed out an executive summary to the Commission members and then read it to the Commission members.

There is a need in East Bethel for a large selection of quality used cars, and Valders Vehicles will sell these top-quality used vehicles at a competitive price. The owner and general manager have over 25 years of combined experience in new and used auto sales. They will continue to develop their excellent working relationship with local dealers and auctions to bring the savings to the customer.

He stated they will be successful because they offer something different – a pleasant car buying experience. They will create a purchasing environment that caters to the customer's wants and needs. They are selling a professional service and an experience in car buying that will bring the customers back time and time again, as well as referring friends and family. They estimate an optimistic gross margin over the industry average driving revenue into our own city.

The overall objectives are: 100% customer satisfaction, measured through repeat customers, referrals and surveys; to achieve and surpass the industry average profit margin within the first two years; and to achieve a respectable net profit by year two.

Valders Vehicles will provide a unique car buying experience to the customer in the city of East Bethel and the surrounding Anoka county area. One that focuses on the customer satisfaction first. They understand that vehicle purchasing is necessary, but sometimes an unpleasant experience. Their goal is to provide the customers with an enjoyable, honest service by satisfying individual customers practical transportation needs with a quality product.

They also believe it is important to have quality vehicles at low cost. Their company will make a profit by generating sales. It will provide job satisfaction and fair compensation to its employees, and a fair return to its owners and the city. Hard work and performance is rewarded through bonuses and commissions. Job satisfaction is very important for employees and owners; they will create a work environment that is enjoyable and profitable for all, including the City of East Bethel.

To succeed in this business they must: secure an excellent high-traffic location, establish a network of suppliers in order to buy and sell projects that are of the highest reliability and quality at a competitive price, and ensure customer satisfaction by encouraging the two most important values, honor and integrity.

They stated they currently have everything in place, except for the license.

Bonin asked if the ages of the cars are older or newer. Jordan stated they are 2000 or newer. He stated to be in compliance with the State, they need to put up a sign stating that.

He explained the interior of the building has been redone. The insulation has been redone because it was rat infested. They have spent their savings to make this work, but the property owner wasn't honest about licensure.

Terry asked why they need a high traffic area, if it is an Internet business. They said it is more for location for people to come to and ease in giving directions.

Holmes stated they haven't had their own business before, but you are going to run this business. He said yes. Holmes said if someone wants to come in and look at the cars, can people come and look at it. He said yes, they can. If we have someone who wants a Suburban, and we purchase it and get it to our lot, then the potential buyer doesn't want it, we are stuck with the Suburban. So that vehicle will sit on our lot and potential buyers can stop and look at it.

Holmes asked why we need this business in East Bethel. He replied one main reason is they think this would completely benefit the building. He said with us being there, or until someone buys the property, we will keep the building and property up.

Balfany asked if you are currently operating at that location. Holmes said you still need the license from the State. He said yes, it needs to be transferred from Spring Lake Park to this location.

Balfany said we had a discussion about car dealerships in the City at our last meeting. The discussion centered on adding another car lot on that frontage area on Hwy 65. That was one concern - just another lot sitting there again. He replied our lot won't look like the typical lot, it is cleaned up and looking good. He stated in the rear area of the lot, they have cut down fences and dragged carpet, etc. that was out there. They also have plans to paint the facility. There will be no expansion, no flags, no vehicles on ramps, etc. They began leasing the property on August 1, 2011. Holmes said you have rented it that long and haven't had any money coming in. He replied yes. He explained he used to be all about business, business, business and he wants to spend more time with his kids. He wants to have a place of business two miles from his house.

Staff has talked with the City Attorney, he has said that other cities do Interim Conditional Use Permits, language in the code whereby the permit is done when the property transitions for a time.

Balfany asked what the precedence would be. If you put in an Interim Use it would be for all of B3. Hanson stated yes, and B3 is located pretty much south of the City Center along Hwy 65.

Mundle asked if we would recommend approval for any of this, it is not just for them. Yes, it would go with the lot, Hanson stated. Mundle stated so in two months from now the property owner kicks them off, and he starts another car lot

sales, what would happen. Hanson said that is a good question for legal counsel. Pelawa asked would the permit follow the property or the owner. Hanson said she will check with legal counsel.

Hanson said this is something that staff would have to come back to Planning Commission about. Balfany said Mr. Chies will have to do the application. They stated that Mr. Chies is willing to do the Zoning Text Amendment.

Bonin made a motion to make a recommendation to City Council to move forward with a ZTA to amend the B3 – Highway Business District to allow open sales lots as an Interim Conditional Use Permit. Mundle seconded. Balfany wanted to amend the motion to include there should be time constraints on the amendment, the amendment was accepted.

Holmes stated he didn't think there could be a time limit on it. Hanson stated there can be language according to the City Attorney.

Terry provided a second amendment to the motion providing that the Zoning Text Amendment be tailored to some of their items they stated they are not, such as any flags, any car lifts, etc. Amendment was accepted. All in favor, motion carries.

This will be discussed at the Wednesday, February 1 City Council Meeting.

**Update: Marketing
& Branding
Consultant, Ady
Voldedge**

On December 14, 2011, the Economic Development Authority and the City Council held a joint meeting to interview consultants for the city marketing and branding strategy. The city entered into contract with Ady Voldedge from Madison, WI to provide the services. As part of the consulting services, Ady Voldedge will review the city comprehensive plan.

Attachment 1 is the schedule of services to be performed. The marketing and branding services will wrap up in May 2012. The first public meeting to occur is a stakeholder's meeting on Wednesday, February 1, 2012 from 8:00 am – 9:30 am located at the East Bethel Senior Center. Stakeholders invited include community leaders such as commissions and business owners. Staff recommends Planning Commission members attend the meeting. The meeting will be informational and the consultants will answer questions from community leaders. After the stakeholder meeting, the consultants will conduct individual interviews of selected community leaders. The individual interviews will occur during a period of two (2) days.

Planning staff has Ady Voldedge's Economic Development Plan and Marketing Plan Proposal for your review upon request.

This is just an information item. The meeting will be next Wednesday morning.

Ady Voldedge will have a survey available to capture more responses through the general public. The big thing is get at least 300 responses through the website. The survey isn't only for residents. It is to collect information from people on what their thoughts of East Bethel are. She will continue to keep the Commission updated on the plan.

Approve November 22, 2011 Planning Commission Meeting Minutes

Terry motioned to approve the November 22, 2011 minutes as presented. Holmes seconded; all in favor, motion carries.

The last meeting we talked about the landfill, and he was wondering if they would be coming to the meeting. Hanson stated the person from the PCA has not been available.

The comprehensive plan amendment the consultant will be looking at. Met Council frowns upon many amendments to the comp plan. So we will let the consultant do what they need to do first and then make a submittal to Met Council.

Adjourn

Holmes made a motion to adjourn the meeting at 7:54 PM. Mundle seconded; all in favor, motion carries.

Submitted by:

Jill Teetzel
Recording Secretary

DRAFT



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 8.0 B.1

Agenda Item:

Planning Commission Meeting Minutes for January 24, 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



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

8.0 B.2

Agenda Item:

Motor Vehicles Sales – Ryan DiMuzio and Jordan Valder

Requested Action:

Discussion of Possible Zoning Text Amendment to Allow Motor Vehicle Open Lot Sales in the B3 – Highway Commercial District

Background Information:

This item was presented at the January 24, 2012 Planning Commission meeting; at which time the Planning Commission made a recommendation to City Council to direct staff to move forward with a zoning text amendment to amend the B3 – Highway Business District to allow open sales lots with an Interim Conditional Use Permit.

Planning Commission has some concerns such as limiting the number of automobiles on the lot. If directed to continue with the ZTA, staff will work with the City Attorney on the amendment language and to address the concerns. If directed to continue, staff plans to have a draft for review at the February 28, 2012 Planning Commission meeting.

City Council reviewed this proposal at the February 1, 2012 meeting and expressed concerns over the effect of a ZTA for this type of use. Council directed staff to work with Mr. DiMuzio, Mr. Valder and the City Attorney to attempt to develop standards or distinctions that would address the concerns of Council and the Planning Commission relating to this request.

Mr. Mark Vierling discussed this issue with Staff and made the recommendation to consider conditions to limit the size of exterior storage of motor vehicles for sale, limit the number of vehicles allowed on site, and/or to limit sales to internet transactions. Mr. DiMuzio and Mr. Valder have submitted information to Mr. Vierling. Mr. Vierling, upon review of their submittals, has requested additional material be submitted that can specifically prove that this business is unique from others either in the manner of sale, point of sale, technical aspects of the sale or otherwise. Mr. Vierling needs the additional information to provide justification that the specific business practices are a distinct and different business model that has unique characteristics in order to objectively separate it from other car dealerships and qualify it as a separate business definition under the city codes.

Mr. Vierling, upon receipt of the request for updated information, will prepare a recommendation that will be distributed to City Council for review prior to the City Council meeting. In the event that a reasonable distinction can not be made between Mr. Valder's internet car sales and that of other car dealerships or other open lot sales, Council may consider authorizing the Zoning Text Amendment to proceed for open lot sales in the B-3 District with but not limited to the following conditions;

- 1.) Outside storage space is limited to 5,000 SF;
 - 2.) No more than 20 vehicles can be place in outside storage at any time;
 - 3.) Arrangement and location of the outside storage area and would have to be approved by the City;
 - 4.) No vehicle can remain in an outside storage lot for more than 30 days and after 30 days the vehicle must be removed from the property;
 - 5.) Uses permitted under this amendment would be issued ICUP's for only a 2 year period; and
 - 6.) Any ICUP's issued as a result of this change would be subject to all other City Ordinances;
- *****

Recommendation:

Pending Mr. Vierling's comments, Staff is seeking direction from Council on this matter.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 8.0 C.1

Agenda Item:

Park Commission Meeting Minutes for January 11, 2012

Requested Action:

Information Only

Background Information:

Information Only. These minutes have been approved by the Park 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 PARKS COMMISSION MEETING
January 11, 2012

The East Bethel Parks Commission met on January 11, 2012 at 7:01 P.M at the East Bethel City Hall for their regular monthly meeting.

MEMBERS PRESENT: Kenneth Langmade Bonnie Harvey Tim Hoffman Denise Lachinski

MEMBERS EXCUSED: Sue Jefferson

ALSO PRESENT: Nate Ayshford, Public Works Manager
Steve Voss, Council Member

Adopt
Agenda

Lachinski motioned to adopt the agenda as submitted. Harvey seconded; all in favor, motion carries.

Approve –
December 14,
2011 Meeting
Minutes

Bottom of page three, second to last paragraph, Lachinski wanted to know if you want to make it year around. Strike the next sentence and add that the parks are open year around for use.

Hoffman made a motion to approve the November 9, 2011 minutes as amended. Harvey seconded; all in favor, motion carries unanimously.

Election of
Officers

Lachinski motioned for Ken Langmade as Chair of the Committee and Bonnie Harvey as Vice-Chair, Hoffman seconded; all in favor, motion carries unanimously.

Parks
Financial
Information –
Parks Capital
Funds
Summary

Parks operation budget finished in the black and the 2012 budget was approved. There haven't been many changes in the budget in the past few months. Hoffman said a couple areas went over, but the others evened it out. The fuel was over, and it was broken down to all the different vehicles. So the increase may be due to all the plowing. Langmade said why the change in the part time employees. There was a part time employee hired to help out with the work load due to full-time employees out on medical leave.

Hoffman motioned to accept the financial reports as presented. Lachinski seconded; all in favor, motion carries unanimously.

Field Rentals Soderville Athletic Association has submitted a request for reserving the softball/baseball fields for the 2012 season. SAA is requesting the use of fields 1-8 at Booster West and East from April 23 to July 12 four nights a week (M-Th) and the fields at Anderson Lakes and Norseland Manor Parks two nights a week during that same time period. Weekend use would be limited to three Fridays and one Saturday at Booster East and West.

As previously presented the reserved use of East Bethel fields in 2011 for exclusive use adds approximately \$6,500 to our annual maintenance costs of these facilities.

Staff recommends that the Parks Commission consider the rental of the Booster West and East Fields to SAA for weekday and weekend use as requested in their application and Norseland and Anderson Lakes Parks for use twice per week at the rate set forth in the City fee schedule less 20%. It is also recommended SAA coordinate and cooperate with other organizations that schedule weekend tournaments at the Booster facilities.

Langmade asked if this is the same amount of use as last year. Ayshford said yes. Lachinski said she received an email that said they donated \$10,000 to Soderville fields and they consider that part of East Bethel. It was asked of Voss if he knew. Voss stated they help build Booster Park. Three years ago they were looking to extend their lease. They had had an open end on the lease, and they hadn't fulfilled the promise of the agreement. Lachinski said Soderville has merged with the Blaine baseball. Voss said he hasn't been involved in the association in some time.

In the past years, they have been paying fees. Lachinski said so it is better paying a fee than a donation. Hoffman said yes, far better. Harvey said this isn't going to be a hogging thing where they want all the fields, and then they decide that they don't need them anymore. Voss said St. Francis baseball uses most fields in St. Francis. Ayshford said St. Francis fast pitch wants to use a field on a weekend that SAA doesn't need it for. But their request is really only for Monday – Thursday.

Harvey said we have beaten this up so badly whereby we waited to allow others come in and request the fields. Voss said he doesn't remember a lot of competition for use during the weeks. Hoffman said the only one that used it during the week was St. Francis baseball. They have been good about working with other organizations. Harvey said her only concern is if we are giving it all to them, that we don't end up down the road, no one else knows. Voss said there aren't any other associations out there. Hoffman said yes there is but they have other places to use. Lachinski said they have one person who has always been dedicated to scheduling. Hoffman said they always have.

Havey made a motion to approve the rental of the Booster West and East Fields to SAA for weekday and weekend use as requested in their application and Norseland and Anderson Lakes Parks for use twice per week at the rate set forth in the City fee schedule less 20%. It is also recommended SAA coordinate and cooperate with other organizations that schedule weekend tournaments at the Booster facilities.

In past years they have had all the fields and then decided they didn't need them. Ayshford said the fee schedule was used and then a 20% discount given because SAA is about 20% East Bethel residents.

Langmade seconded.

Lachinski doesn't believe that 20% is what it is. Voss said about 2 years ago it was. It is the biggest area wide association in the twin cities. Hoffman said do you know what it will end up being for fees. Ayshford said no he doesn't know what it is. Hoffman said because we have looked at what they pay, and it never really covers what it costs us to take care of the fields.

All in favor, motion carries unanimously.

Harvey asked if the concession stand has been addressed. Hoffman said it is on here and they are paying for it. Lachinski asked if we know what they did with Ham Lake. Harvey said Ham Lake they don't charge, and they sometimes do a donation. Ayshford said the City did the lawn mowing and taking care of the fencing and SAA takes care of the chalking, dragging, base set-up, etc. of the field.

**Tobacco Free
Parks
Program**

Staff has been contacted by the Tobacco Free Youth Recreation Program with information about helping the City of East Bethel establish a tobacco free policy for its parks during youth activities. The attached guide provides an overview of what the program entails as well as resources for developing a policy. Staff has reviewed policies of other municipalities to get an idea of what could be included in a policy. Policies and ordinances can range from prohibiting tobacco use on any public grounds to prohibiting use only during youth activities.

This is an informational item provided to the Park Commission.

Lachinski said she was surprised that Blaine isn't on the list. Ayshford said most of the county parks are in the program. Ayshford said there aren't any laws that govern this. He said the main focus of this program is to curb tobacco use around the youth. Hoffman said it is surprising when you come up here for a baseball/softball tournament and you won't see anyone smoking. Hoffman thinks it is a great idea. Ayshford said we can put together a draft policy, if it is something you want to look at. Hoffman is in favor of that.

Ayshford asked if there was any feeling on what you want to include in this policy. Harvey said something was developed a few years ago. Voss said it went to Council and it wasn't approved. Lachinski wondered what happened then. Voss said the Council thought it was up to the youth groups to be pushing it. Harvey said it was also because we rent out the pavilions. Voss said also discussions were people walking on the trails. Ayshford said some of the more lenient ones talked about no-smoking during youth events. Voss said the Blaine fields are signed for no-smoking.

Lachinski said if we go through this, do we get any money. Ayshford said no they will provide signs and they are typically displayed on the backstops or on the areas by the playgrounds. Hoffman said he liked the one policy presented.

Voss said one other comment that came up, if you post it, what you do during the fireman's dance. Lachinski said Coon Rapids has the policy, and they allow smoking during their carnival. Voss asked what Ham Lake does. Ayshford said he wasn't sure what they did during the fireman's dance.

Enforcement is tough, just asking them to stop smoking. Hoffman said he should come up with a proposal. Ayshford said he would develop one for the next Commission meeting. Lachinski asked if they could put the signs by her yard, since the people come to her yard and smoke.

Park Survey The Park Commission has expressed a need for gathering resident input on park and trail use and what future use and development may be desired. Three options have been discussed for distributing a park survey.

Option #1- Direct mailing of survey to residents with response envelope

Each household would receive the survey and could mail it back with the enclosed envelope at no charge to them.

- Cost: \$3,215.00
- Highest Probability of representative response
- Able to include a more in-depth survey
- No deadline

This may be more difficult to do, since we don't have the funds. Also it would have to be approved by Council.

Option #2- Survey included with spring newsletter

Each household would receive the survey and would have to mail in their form at their own cost or drop it off at City Hall.

- Cost: Minimal- absorbed with newsletter costs
- Number of surveys returned could be significantly lower and less representative
- Survey limited to one page
- Deadline- mid February

Option #3- Online Survey

A survey placed on the City's website that residents could fill out and submit.

- Cost: Minimal
- Survey limited to residents with internet service
- No way to track who has filled the survey out or how many times
- Able to include a more in-depth survey

Park Survey

Lachinski said there were a few items that didn't make the latest survey. Such as horseshoes. Ayshford said those were items given to Dan and he is no longer with the Commission.

Langmade was interested in combining number 2/3. Ayshford said Wendy said this will have to be part of the newsletter. Harvey said if it could be folded up in the newsletter, and then pulled out so it could be filled out, folded and taped and mailed.

Lachinski asked if the City has a drop box. Ayshford said no. Just the Senior Center drop box. Harvey said we talked about that too.

Ayshford said if it is an online survey there is no way to track who took the survey. It might be a good idea to do both. Lachinski said is there a way to track a cookie. Ayshford said Wendy said there is no way to track it.

Hoffman doesn't think number 1 is a possibility. He believes doing a combination of 2 and 3. Ayshford said if we do that, we should remove question 3. Lachinski said can the question be modified. Ayshford said to change the question to what quadrants/corner of the City do you live in.

Harvey said we are asking them what part of the City they reside in. Ayshford said we could ask what parks they use. Harvey said she would like to see that. She said back in the day she was in all the parks.

Ayshford said any other activities we want to have. Lachinski said we were going to add biking, and hiking. Also we were going to add in a question on a dog park. Also on number 7 we were going to add horseshoes. She also wanted to know if we wanted to change the name from disk golf to disk/Frisbee golf. Ayshford said no we can't use that because it is a trade name. Lachinski said should we add in water skiing. Hoffman said no. Harvey wanted to know if fishing was on here. No it is not, it should be added. Ayshford asked how you want to do the dog park question. Lachinski said it was in number six, as a check off item.

School House Update

The school building at Booster East Park was moved from its previous location on East Bethel Blvd to Booster East Park in September 2010. Approximately \$21,000 was spent to move the building and set it on a permanent foundation. There have been no City funds budgeted for additional improvements or renovations to the building nor has a specific use been determined for the building. Some suggested uses for this building could be:

- 1.) Interpretive Center for Booster Pond Ecosystem
- 2.) Historic Restoration of a one room school
- 3.) Booster Day Center
- 4.) Booster East/West Park Program Center
- 5.) Combination of parts or all of the above
- 6.) Other

To date \$2,850.00 has been donated for the renovation of the school house.

Langmade said Butler would like to see the windows get replaced. Ayshford said doors and windows would be a great place to start. Hoffman asked how the roof was. Ayshford said the roof is mostly tin and water sheds off of it. Lachinski said we had also talked about skirting around the base. Ayshford said these are the types of items that we are looking at. Hoffman asked what the costs are. Ayshford said Butler was looking at pricing, but he will finish it up. Ayshford said do we want vandal proof windows or glass? Lachinski said we probably should have vandal proof windows.

Lachinski said it would be easier to get donations if the building had a designation. It is tough to get donations when the building doesn't have a purpose. Hoffman said so it is a restoration of school house. Lachinski said it could also be used for geo-caching. It is very hard to get donations, because there isn't a specific purpose.

Voss said if there is a specific list of tasks to improve the building, you would be more inclined to donate. Lachinski would like the building to be used for a historic school room and/or a meeting room. Hoffman said if we are talking doors and windows. Lachinski said she might have someone lined up to give us glass, but we need a designation.

Ayshford said we have an idea of what needs to be done on the building. There is a rotten side on the northwest corner that needs to be fixed, windows, doors, skirting, and steps. Ayshford said we know what it costs to install the doors. Our department could put on the siding. Lachinski said their scouting group would help also.

Hoffman said it really comes back to what we are going to use it for. Lachinski said a classroom, or a historic area have been discussed. Ayshford said this is the same use that was done in Cambridge. Lachinski said theirs is used for historic.

Lachinski motioned that the school house use be designated as a historic classroom/meeting space. Hoffman seconded; all in favor, motion carries unanimously.

Ayshford said he will look at getting an estimate on replacement of the roof. He will also meet with Menards to get the cost on windows (both shatter proof and glass). Langmade will talk to his seniors group for donating time and energies. Lachinski said there are people on the Fire Department that are electricians, etc. They would be willing to help out.

Lachinski also wanted to say thank you to Dan Butler for all his work on this.

Council
Report and
Other
Business

Voss has nothing to report at this point. The ATVs are now legal on the City streets. Lachinski said there were kids out weaving in and out of traffic. Voss said that is a City street, it is County. Lachinski said they have to be pretty fast golf carts. Voss said there would be an article in the newsletter on it.

Langmade said is the Council coming up with a new sort of deal on the adopt-a-park. Voss said the concern is the City's liability on the volunteers. Mark Vierling made a couple of changes. Ayshford said it will be at the next Council meeting. Langmade said it would something along the same lines as the clean up along the highway. This is what our Park Commission had recommended. Voss said come and talk to Council about it. Harvey said trouble shooting was a big piece of it. It is nice to look and see if something is broken or a whole in the fence. Voss said he doesn't think there was anything critical. He doesn't think it won't be approved. Lachinski said the only time the parks are inspected is when we go out there. Ayshford clarified no, that isn't correct, City staff are out working in the parks on a regular basis. Lachinski said it is more of a take pride in your community.

Lachinski was wondering if the play ground equipment has come in yet. Ayshford said it is in.

Adjourn

Hoffman motioned to adjourn the January 11, 2012 meeting at 8:04 p.m. Lachinski seconded; all in favor, motion carries unanimously.



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 8.0 D.1

Agenda Item:

Road Commission Meeting Minutes for January 10, 2012

Requested Action:

Information Only

Background Information:

Information Only. These minutes are in draft form. They have not been approved by the Road 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 ROAD COMMISSION MEETING
January 10, 2012

The East Bethel Road Commission met on January 10, 2012 at 6:30 PM at the City Hall for their regular monthly meeting.

MEMBERS PRESENT: Jeff Jensen Al Thunberg Deny Murphy Roger Virta Kathy Paavola
Laurie Pierson

MEMBERS EXCUSED:

ALSO PRESENT: Nate Ayshford, City Public Works Manager
Robert DeRoche, City Council Member

Oath of Office Chairman Jensen called the January 10, 2012 meeting to order at 6:31 P.M.

The oath of office was administered by Ayshford.

I, Laurie Pierson, do solemnly swear or affirm that I will support the Constitution of the United States of America and the State of Minnesota, and faithfully discharge the duties as a member of the City of East Bethel Road Commission in the County of Anoka and the State of Minnesota to the best of my ability. So help me God.

Adopt **Paavola made a motion to adopt the amended the January 10, 2012 agenda.**
Agenda **Thunberg seconded; all in favor, motion carries.**

Approve Virta said on page 2, first line, Thunberg had a question on number six. Last sentence
Minutes – should be changed to Virta asked, dumping to service roads. Next page should be change
December 13, to Virta asked? Page four: In the middle of the page, lets clean up that sentence to Virta
2011 stated that under the current standards they are not permitted to drive on the right of way.
Next to last paragraph, last sentence; does this permit driving on right of ways in the city
of east bethel?

DeRoche stated on page 2, second paragraph, break up period after typical, and there should maybe be something in the definition. It doesn't make sense to DeRoche. DeRoche said the Beach area is not a big priority. He said he didn't say that, so remove the sentence. DeRoche said we are looking to extending the water north. We are actually looking at sending it south. Sixth paragraph, ATV riders will buy gas. The intent was to show that ATV riders will buy gas in the City. Page 5 first paragraph, should be changed to no person shall with the express permission of the property owner. That was a reference to if you the fact that the draft was not written correctly. That pointed those out to Nate.

Thunberg said the policy has been passed by the Council. DeRoche said if you are driving on County Road 22, you have to come up for an obstruction and you have to be down within 100 feet. Thunberg said change it to ditch.

Murphy said Page 2 of 6 Murphy said if you get a 60 year old. Change to as vague as a 60 year old opinion. The idea was there, because they are using a 60 year old opinion. Thunberg said if it is dark will they be able to see them.

DeRoche said the paragraph above that, he doesn't know if it makes sense. Ayshford said you can use anyone from any age with a device, or someone who has a set number of signs they recalibrate, anyone can do that at any age. The machine is \$10,000. Actually at the City Council meeting they have pushed back the dates on this item.

Thunberg made a motion to approve the December 13, 2011 minutes. Murphy seconded; all in favor, motion carries.

Virta wondered if the City Council gets the minutes from the meeting. He that the City Council gets the minutes, and they might not be approved. Jensen said didn't the Council just approve the ATV item. Ayshford said the recommendation was provided to Council. Jensen asked if the Council went on the recommendation, but didn't know the discussion. Council members were not at the Roads Commission meeting and do not know what was discussed. DeRoche said updates come out every Friday. If we don't have the information, Council may table the discussion until they get the information they want. Virta said that in the City Council notes it said something about unapproved minutes. He didn't see a similar statement for the Road Committee minutes. DeRoche said we didn't have the minutes. Anytime the Council has a meeting there is a packet. Paavola said the unapproved minutes are in the Council packets. It is noted that they are not approved. DeRoche said he didn't think it was part of his packet. DeRoche said the liaisons do bring up the discussions at the Commission meetings. He said we don't provide minutes because it would make Teetzel do them quickly. Teetzel stated she does do them quickly for meetings. Virta said it wasn't unanimous decision on the ATV topic and that is an important thing to point out. Ayshford said he would talk to Davis about that.

Elect Officers It was asked if there are any recommendations or volunteers to be chair of the Commission. Thunberg said it is Virta's turn. Virta stated he has never been the chairman. By unanimous consent, Virta will be Chair of the Roads Commission and Murphy will be Vice-Chair of the Roads Commission.

Road Financial Information – Roads Capital Funds Summary Virta asked if there were any comments on the Road Financial. Ayshford stated the Streets Operation budget ended up in the black. The nice weather really helped. Jensen said does the City have storage for the salt? Ayshford said we do have storage space for it. East Bethel pays quite a bit more for salt because we have to have it hauled to our City. We are in good shape for salt this year.

Ayshford asked if there were any questions on the budget. Virta said the City will go with a 90 day trial on this ATV policy. He is concerned about the damage to the right of ways. If there is damage can you please let the Roads Commission know. DeRoche said he senses some bias here. It might not be damage due to the ATV. There has to be a much unbiased opinion. Ayshford said he is sure the Council would like to know. DeRoche said he thinks we should regulate and not let people do what they want. Any other comments on the financials?

Street From 2005-2009 the Street Maintenance Operations Budget contained a line item for the

Lighting Plan

installation of street lights at important intersections throughout the city. Upon completion of the initial installation plan, the line item was removed from subsequent budgets. A number of street light locations still remain that were never completed under the initial program. The 2012 budget does not contain any specified funds for street light installation.

Most new light placements would cost between \$800.00 - \$1,500 depending on the pole location, type of light required, and the presence of an existing transformer at the site. The average cost to the city for the energy consumption of each light is approximately \$110.00/year.

City staff has received a recommendation for a street light to be placed at the intersection of Lincoln Dr and Forest Rd in the Coon Lake Beach Neighborhood of East Bethel. The estimated cost of the light and installation would be \$574.00 after waiving the right-of-way permit fee. This location already has a pole and transformer on site.

DeRoche asked why there is a permit fee. Ayshford said so we follow what is on the right of way permit. There is a \$574.00 cost for the City if we waive the right-of-way permit fee. Ayshford said this is only on public property. Jensen said does Anoka County charge us any fees if it is in the County Right of way. Ayshford said no.

DeRoche asked what the difference between summer and winter is. Ayshford said there are times that they have to place the poles in different seasons and frozen soils.

Paavola said the sign at the location is whipping in the wind. Ayshford said he believes it is has been removed. DeRoche said he got a few letters about that intersection. Paavola said it is really dark there. DeRoche said it is really dark there when the bar doesn't leave the lights on.

Jensen said the reason we dropped the program, it got down to the last two years, we were throwing darts to find places to put the lights. A lot of people would complain due to the light noise and he believes the lights should be added on a request basis.

Thunberg said when they are on a County Road, the lights are very valuable. Thunberg said he believes it should be held off until there is a request.

Jensen said most of the high speed roads/intersections and County Roads are done.

Paavola asked if the light has to be a really bright light. DeRoche said they now have a cheesy dome on them. Paavola said neighbors were complaining about the lights on Lake Shore. If we recommend for this to go in, it doesn't have to be the brightest light in town. When people are walking around at night that intersection is very dangerous. DeRoche said no one lives on the corner, that light shouldn't be reflecting on anything.

Jensen asked what the speed on that road is. Paavola said it is 30mph. Ayshford said he would talk to the property owners in the area. He talked to the Market and they are ok with it. Thunberg said a gentleman wanted a light put in at an intersection of two city streets due to his children waiting for the bus and we denied it. Basically the recommendation was the child should stand somewhere else. Virta said we didn't want to get into the business of lighting up the whole City. DeRoche said that intersection is a four way stop. It is a black intersection. Jensen said we do not have lights at every other four way stop. If you have the correct stop signs and your lights on in the car, you should be able to see

them.

Ayshford said we are going to address each light request on a per case basis. Then make a recommendation on each light to the Council. Thunberg said we were concerned with maintenance and the cost of operating each one for a year. Murphy agrees with a case by case basis. Consensus is the Commission would like to look at them on a case-by-case basis.

Discussion continued on lighting at Lincoln and Lake Drive. Jensen said he thinks this should be put on hold until the next meeting. If there is light noise, it makes people less aware of what is there. Paavola said the store closes at nine, and the bar is closed on Monday and Tuesday's. DeRoche said drive through tonight. DeRoche said wasn't there one there before. Paavola said yes.

Jensen motion the current street lighting plan should continue as is and table this request until February meeting. Thunberg seconded; all in favor, motion carries (Murphy opposed.)

This will be considered at the February meeting.

Murphy asked what the wattage is. Ayshford said it is 150 watts. Virta said are we to review all the other information. Ayshford said it is information you should review for information purposes only. Ayshford said Lexington and Longfellow would be a good location for another light and Sunset would also be another good location for a light.

2012-2014 MSA Projects

Staff was notified that the City of East Bethel has been awarded municipal agreement funds from MN/DOT for construction of the frontage road system between 215th Ave and County Road 74 and closure of the access to TH 65 at 219th Ave. The initial agreement would provide an estimated \$702,000 in MN/DOOT funding along with a City match of \$888,968. Funds for this project would be provided by the MSA Street Capital Fund.

The reconstruction of Jackson St from 181st Ave to Viking Blvd is scheduled for 2012. Funds for the project have been budgeted for 2012 and approved by the City Council. Advance funding of the 2013 MSA allocation will also be required for this project.

Future planned MSA road improvements include the reconstruction of Lincoln Dr, Laurel Rd, and Longfellow Dr if MSA designation is successful and the construction of a connection between the Sauter Commercial Park at Trunk Highway 65 and 187th Lane and Viking Boulevard at Jackson Street. We will probably have to pull the other grant application that was discussed at the last meeting.

The City can advance fund up to 4 times the annual MSA allotment to fund construction projects. Our engineer looks favorably on the projects being finished. Jensen asked what Council thinks of this. We finally have the light from Anoka County on 221st and we have been talking about Jackson for ten years. Virta said we also put it off due to the additional construction traffic. DeRoche said why worry about the service road if the light goes in. The whole premise on putting it on the east side to get people down to Sims. Thunberg said he really questions the value on spending this kind of money on this project. He thinks the money should be spent on Hwy 65 and County Road 22. There really isn't any benefit to it. The value on this is less than on the other side, since you can use University

to Sims. On the other side of Hwy 65, a service road is valuable.

DeRoche said we are still trying to do the Hwy 65 and County Road 22 area as Project 1. If some big developer wants to come in and get sewer and water somewhere north, they can pay for it. Ayshford said if we turn this one down, future applications will be harder to get. DeRoche said we didn't turn it down, we couldn't get easements. Jensen said at some point, from Cambridge down to Blaine will be four way freeway. DeRoche said the City's commitment on the intersection at 221st is \$38,000. Ayshford said Jackson street is scheduled to be done this summer. Ayshford summarized that the Commission's feeling was to turn down the grant and focus improvements on the Phase 1 project area. This is an informational item at this time and he will bring it forward to Davis and the City Engineer.

Virta said we might want to do more work around the theater area.

Ayshford said after Jackson Street the next project is Lincoln, Laurel and Longfellow (if they get to be MSA). The rest of the MSA's are in good shape.

Council
Report and
Other
Business

Virta was wondering how things are going down in that area to attract businesses and build roads. Ayshford said that the project is on hold until some items between the engineer and contractor can be resolved. DeRoche said we did hire a marketing firm for the City. There were eleven who applied, and we interviewed the four and it was reduced to two. Addy Voltage knew the City, and did quite a bit of research. They seemed more presentable and seemed that they would work with the City.

A potential new business in the City, Aggressive Hydraulics, he hasn't heard anything on. The City Sewer and Water project is stopped temporarily until the issues between the engineer and contractor can be resolved. DeRoche said he is concerned about the warranty. Jensen asked is Met Council using Bolton and Menk and do they have someone on site for inspection?

Council approved the snowplowing policy.

The February meeting is scheduled for Valentine's Day and there isn't one scheduled. We could do it the Monday before. We can put it off an additional month or choose a different night to meet. Paavola can't meet on the second Monday of the month. The week before runs into other meetings. Virta said is the meeting here. Paavola said it is at the Beach.

The group agreed to discuss the light previously discussed in the meeting in case a February meeting date could not be determined. Jensen asked if this have to be voted on. We are going to vote our recommendation. Ayshford added that his recommendation is to put in a light there.

Retract the motion to table it.

Paavola motioned to take the City Public Works Managers recommendation to add a light at Lincoln and Forrest Road for safety reasons. Jensen seconded; all in favor, motion carries. (Thunberg opposed.)

Paavola has a request the Cans for Kids at the beach has been plowed into in years past. Last year they had to repair the cage. If they could be more careful on where they bank up

the snow it would be greatly appreciated. Ayshford said as long there is another place where they can push the snow.

Adjourn **Paavola made a motion to adjourn the January 10, 2012 meeting at 7:40PM. Thunberg seconded; all in favor, motion carries.**

Submitted by:

Jill Teetzel
Recording Secretary

DRAFT



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

9.0 A.1

Agenda Item:

Amendment to Approved Variance Conditions for Gordon Hoppe, 1861 Viking Blvd

Requested Action:

Consider Amendment to Approved Variance Conditions for Gordon Hoppe, 1861 Viking Blvd

Background Information:

On October 5, 2011, City Council approved Mr. Hoppe’s request for a variance to allow the expansion of two (2) commercial buildings at 1861 Viking Blvd. City Council meeting minutes from October 5, 2011 are attached for your review as attachment #1.

At the October 5, 2011 meeting, residents of the 189th Ave. neighborhood complained about Mr. Hoppe’s business activities from his residence. Separate from the approval of Mr. Hoppe’s variance, staff met with the residents to address this issue. Residents of the neighborhood again contacted staff on December 14, 2011 and stated that some of Mr. Hoppe’s activities in regards to noise had improved initially but in the past few weeks the problem had become more pronounced. Mr. Hoppe was contacted, explained the situation, and staff was assured by Mr. Hoppe that the commercial vehicle traffic would cease as of December 20, 2012.

On January 9, 2012 staff received a complaint from neighbors stating Mr. Hoppe was conducting business from his 189th Street address and creating a noise nuisance. Again, staff met with the neighbors at which time they provided additional information about Mr. Hoppe’s activities. Staff met with Mr. Hoppe after both of the registered complaints and in both instances Mr. Hoppe denied the accusations.

Because of the continuing nature of this dispute and the assumption that Mr. Hoppe may be operating a business at the 189th Ave NE without an Interim Use Permit (IUP), Staff and Mr. Vierling, City Attorney, request City Council to consider amending the approved variance conditions. The consideration is to delete condition #5 that reads:

“Commercial vehicles stored on Mr. Hoppe’s residential property, located at 604 189th Ave. NE, East Bethel, may remain on the property until the completion of the additions to the commercial buildings located at 1861 Viking Blvd., East Bethel. Commercial vehicles must be removed from the residential property within one (1) week of the issuance of the Certificate of Occupancy”. Mr. Hoppe would be subject to the storage requirements as set forth in City Code for Rural Residential Zones.

This condition is not applicable to the variance for 1861 Viking Boulevard. Additionally, Mr. Hoppe has not asked for nor does he acknowledge any needed permissions for his residential property relative to this activity. If staff determines that a home occupation is being operated from the property, Mr. Hoppe will be required to apply for an IUP.

Attachments:

- 1. October 5, 2012 City Council Meeting Minutes

Fiscal Impact:

Not Applicable

Recommendation:

Staff recommends City Council amend the original conditions of the approved variance by deleting condition #5. The amended conditions for the approved variance to allow two (2) building expansions onto existing structures and to reduce the side yard setback to a city street for a legal nonconforming business are amended as to read as follows:

- 1. Variance agreement must be signed and executed prior to the issuance of building permits.
- 2. Building permits must be issued prior to the start of construction.
- 3. Additions must be comparable in materials to the existing structures.
- 4. In the event vegetation is removed to an extent where the operation is visible from the northern residential property, a minimum of a six (6) foot wooden privacy fence must be erected on the northern property line.

City Council Action

Motion by:_____

Second by:_____

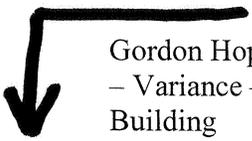
Vote Yes:_____

Vote No:_____

No Action Required:_____

not close to any property lines. Hanson said so when the dogs are let out, it wouldn't be right on someone's property. Lawrence said we could table this and ask them to come in. Davis said if you have issues and wish to speak with them, that would be best. Moegerle asked do we have to do this within a certain time specification? Davis said it could be tabled until the next meeting.

DeRoche made a motion to table the Interim Use Permit (IUP) for a Private Kennel for Alista & Patrick Schroeder at 22525 Durant St. NE until the next City Council meeting. Moegerle seconded; all in favor, motion carries. Davis said we will notify them that this was tabled and that there are questions that Council would request their presence so they can discuss these questions with them at the next meeting.



Gordon Hoppe
– Variance –
Building
Expansion
Existing
Business –
1861 Viking
Blvd. NE

Davis explained that Mr. Hoppe is requesting variances for two (2) building expansions at his existing business and a possible side yard setback variance for the business known as Gordy's Custom Cabinets. He also has a snow removal and excavation business operating from the property. Commercial vehicles and equipment for the cabinet and snow removal businesses are stored within the existing structures. However, Mr. Hoppe would also like to store the commercial vehicles for the excavation business on site as well.

The property is zoned residential and the existing use is commercial, therefore it is considered a legal nonconforming use; meaning the existing use was lawful when established but which no longer meets all ordinance requirements. City Code Appendix A, Zoning, Section 05.1 states that nonconforming uses may be expanded only after city approval of a variance.

Mr. Hoppe would like to continue operating his businesses in the City of East Bethel. However, the businesses are in need of additional storage for the commercial vehicles. A site plan of the proposed additions has been attached for your review as attachment #3. The first 20'x 50' (1,000 square feet) addition would be part of the existing principal building located on the northwestern corner of the building. The area would be additional storage space of materials needed to continue with the cabinet aspect of the business.

The second would be a 30'x 40' (1,200 square feet) addition to an existing detached structure on the western side of the property. This building is used for the storage of commercial vehicles.

Mr. Hoppe is proposing an addition to the northern side of the building (known as B) or to the western side of the building (known as A) abutting Isanti Street; however, he prefers an addition on the western side of the building. Mr. Hoppe has included a letter with his intentions as part of the application and is attachment #2.

Staff has evaluated proposed additions A and B. Addition A would make the best use of the land by being located the furthest away from the residential property to the north, it would require the least amount of vegetation removal, and it would not require additional hard surfaced driveway. However, addition A would require an additional variance for a side yard setback to a city street to be reduced from forty (40) feet to nineteen (19) feet. The addition would sit approximately 20 feet behind the existing fence.

Addition B would be located closer to the residential property to the north. More vegetation would need to be removed, thus the addition would be more visible to the neighboring property owner. Also, addition B would require Mr. Hoppe to expand the hard surfacing of

Attachment #1

the existing parking lot.

The northern portion of the land consists of a dense vegetation of mature trees and understory shrubs/brush. When the vegetation is leafed out, the buildings are almost invisible from the residential property to the north; therefore, the existing vegetation seems to be an adequate barrier. Adding a fence along the northern property line would require extensive removal of vegetation thus making the buildings more visible. There is a six (6) foot privacy fence along the western and eastern property lines.

Mr. Hoppe would like to continue operating his businesses in the City of East Bethel; however, he needs more space to store additional commercial vehicles that already have a presence on the property. The commercial vehicles include two (2) dump trucks, two (2) backhoes, and one (1) bobcat. Currently, the commercial vehicles are stored at his residential property in East Bethel.

Staff has received numerous complaints regarding the storage of the commercial vehicles at his residence. Mr. Hoppe has been sent noncompliant notices and has been cooperatively working with staff to correct the issue. In the event the variances are approved, staff suggests Mr. Hoppe be given permission to continue to store the commercial vehicles at his residence until construction is complete.

Mr. Hoppe's intentions are to complete the project yet this fall, weather permitting. If the weather does not cooperate, he plans to continue the project in mid-April of 2012, with a completion in mid-May 2012.

Planning Commission recommends variances approval, based on the findings of fact, to City Council for the following variances:

1. A variance for a 1,000 square foot expansion to the northwestern corner of the principal structure.
2. A variance for a 1,200 square foot expansion to the western side of the detached accessory structure.
3. A variance to reduce the side yard setback to a city street from forty (40) feet to nineteen (19) feet.

The variances being for the property located at 1861 Viking Blvd, East Bethel MN, PIN 28-33-23-23-0011

Moegerle said as the liaison to the Planning Commission she attended that meeting and she has a question about the write-up. She understands this as choose either A or B and then the staff recommendation is two expansions, one to the northwest of the principal structure which would be A and a variance on the western side which is B. She asked so is he asking for A or B? Hanson said if you look at Hoppe's information, he proposed two different expansions on the accessory structure. She said one is going towards the residential property and one going towards the street. Moegerle asked so we are to choose one for him? Because the way the options are, it doesn't say one or two. She said that clarifies that for her. Moegerle said she doesn't recall whether planning commission recommended one or the other. Hanson said they recommended the option going towards the west side of the structure. Moegerle asked and that is supported by the write-up. Hanson said yes. Lawrence asked this is primarily a commercial business? There is no residence here. Hanson said yes, there is no residence here. Moegerle said this is in that area where, at the comp plan meeting we were going to rezone some of this along Viking into commercial.

Hanson said for the commercial properties along Viking staff will be bringing that forward as a comprehensive plan amendment for land use changes. That is what we will be proposing, is changing those Rural Residential zoning on those commercial businesses along 22 to be commercial. Moegerle said so this is in advance of that change. He is beating us to the punch.

Moegerle made a motion to approve the request for Gordon Hoppe for variances for the property located at 1861 Viking Blvd, East Bethel MN (PIN 28 33 23 23 0011) based on the findings of facts for: 1. A variance for a 1,000 square foot expansion to the northwestern corner of the principal structure; 2. A variance for a 1,200 square foot expansion to the western side of the detached accessory structure; 3. A variance to reduce the side yard setback to a city street from forty (40) feet to nineteen (19) feet. These variances are subject to the following conditions: a. Variance agreement must be signed and executed prior to the issuance of building permits; b. Building permits must be issued prior to the start of construction; c. Additions must be comparable in materials to the existing structures; d. In the event vegetation is removed to an extent where the operation is visible from the northern residential property, a minimum of a six (6) foot wooden privacy fence must be erected on the northern property line; e. Commercial vehicles stored on Mr. Hoppe’s residential property, located at 604 189th Ave. NE, East Bethel, may remain on the property until the completion of the additions to the commercial buildings located at 1861 Viking Blvd., East Bethel. Commercial vehicles must be removed from the residential property within one (1) week of the issuance of the Certificate of Occupancy. DeRoche seconded; all in favor, motion carries.



Consideration of Zoning Text Amendment to Allow Open Sales Lot – Boats and Exterior Storage in the B2 Zoning District

Davis explained that staff has been approached by Mr. Wayne Howe to open a boat repair, winterization, and sales business in the B2 zoning district at the property located at 21058 Davenport Street (Flex Fitness Building).

Although retail sales and services conducted completely within the structure is allowed in the B2 district, it specifically states large items such as motor vehicles or open sale lots are not included in this category of uses. Also, exterior storage is limited to 100 square feet with an approved conditional use permit (CUP). Mr. Howe’s proposed business would require more than 100 square feet for the storage of boats waiting for repair and winter storage. An exterior display area not exceeding ten (10) percent of the gross floor area of the principal building is allowed.

Currently, boat sales and exterior storage are conditional uses in the B3 zoning district. If City Council directs staff to prepare a ZTA, staff recommends boat sales and an increased exterior storage area be allowed with approved CUP’s.

A ZTA for this proposed use in the B-2 zone would not be exclusive to Mr. Howe’s request but would open this entire zoning classification to this exemption.

Staff seeks direction from City Council regarding a ZTA to allow Open Sales Lots – Boats Sales and to increase the allowable exterior storage area as conditional uses in the B2 zoning district.

Discussion of Issues at Property

Tom Seefeld of 18822 5th Street NE said he would like to know your definition of storage, storage of vehicles. He said adjoins Hoppe’s place now. Moegerle asked the construction on Viking or where he currently stores his equipment? Seefeld said where he currently



2011

East Bethel Community Development Department, Building Inspections/Code Enforcement

Building inspections/code enforcement is currently staffed by two state certified building inspectors. Staff is responsible for issuing building, mechanical, plumbing, electrical, septic permits and conducting plan reviews and site inspections as required by the state building codes and MPCA rules.

Building permits issued and the revenues received have been reduced the last couple of years. Staff issued 509 permits valued at \$2,960,469.63 collecting fees totaling \$100,116.57. Inspectors conducted 1,023 site inspections which would include an additional 12-15% increase for return site inspections and or project site reviews with contractors and homeowners.

Staff expects 2012 increases in new home construction, new commercial and a continued increase in existing residential remodels and septic systems replacement. Fee's collected in 2012 will include revenue collected for electrical permits.

Staff continues to review records and track property sales to identify non-compliant septic systems. This past year staff identified 102 systems that failed to meet minimum MPCA Chapter 7080 regulations. Staff generates compliance letters and follows the violation through completion.

Currently the city of Bethel is reviewing staffs proposal to issue building permits and provide inspection services for their community. Building official attended the city of Bethel's regularly scheduled council meeting on January 19th, 2012 to highlight the services that we could provide. They have requested that we conduct

nuisance violations enforcement services for them effective immediately and we could provide building inspection services to them upon a proposal and approval by Council.

Nuisance complaints continue to consume staff time. Staff initiated approximately 122 nuisance complaint letters; this number does not accurately reflect the number of site visits and phone contacts made to properties that may have had a violation.

Staff recommends the preparation and adoption of a lawn maintenance and a noise nuisance ordinance. The intent of the tall grass ordinance change is to give staff a good tool for abatement when dealing with vacant properties. Staff has had discussions with Anoka Co. Sheriffs office and we have concluded that the current noise ordinance requires change to allow the deputies to abate the problem while onsite.

Complaints regarding foreclosed properties seemed to decrease this past year, banks and their property preservation contractors seem to be more proactive and respond quicker to our calls and letters.

Staff has noticed an increase over the past two years in rental properties and neighborhoods that have rental properties. We have also received a large number of inquiries from national rental management contractors requesting whether the city requires a rental license. Staff and the city attorney are currently working on a rental ordinance for council to consider.

Staff saw a change in management of Castle Towers Mobile Home Park. Staff time has been invested in meetings with the state health department, park owners, management, residents and All Parks Alliance for Change (APAC) a non-profit organization that assists resident that want to establish a park association. Although the process has been slow we believe that we will see continued improvement in the park.



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

9.0 A.2

Agenda Item:

2011 Building Division Report

Requested Action:

Information Item Only

Background Information:

Mr. Larry Martin will deliver a report on 2011 Building Division activities and projections for 2012.

Attachment(s):

Fiscal Impact:

Recommendation(s):

None at this time

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

**PAY ESTIMATE #1
CITY OF EAST BETHEL
Elevated Storage Tank Construction**

January 12, 2012

Honorable Mayor and City Council
City of East Bethel
2241 - 221st Avenue N.E.
East Bethel, MN 55011

RE: Elevated Storage Tank Construction E-7248
Contractor: Caldwell Tank, Inc.
Contract Amount: \$1,072,000.00
Award Date: December 1, 2010

Dear Honorable Mayor and Council Members:

The following work has been completed on the above-referenced project by Caldwell Tank, Inc.

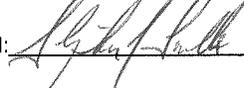
ITEM NO.	ITEM DESCRIPTION	ESTIMATED QUANTITY	UNIT	CONTRACT UNIT PRICE	CONTRACT AMOUNT	USED TO DATE	EXTENSION
1	Bonds & Insurance	1	LS	\$ 10,720.00	\$ 10,720.00	1.00	\$ 10,720.00
2	Engineering/Draft/Design-Foundation	1	LS	\$ 42,880.00	\$ 42,880.00	1.00	\$ 42,880.00
3	Engineering/Draft/Design-Tank	1	LS	\$ 64,320.00	\$ 64,320.00	1.00	\$ 64,320.00
4	Fabricated Material Delivery	1	LS	\$ 341,810.00	\$ 341,810.00	1.00	\$ 341,810.00
5	Foundation Construction & Piping	1	LS	\$ 108,000.00	\$ 108,000.00	0.95	\$ 102,600.00
6	Tank Construction	1	LS	\$ 295,960.00	\$ 295,960.00	0.95	\$ 281,162.00
7	Field Painting	1	LS	\$ 123,900.00	\$ 123,900.00		\$ -
8	Electrical Installation	1	LS	\$ 49,410.00	\$ 49,410.00		\$ -
9	General Construction & Allowance	1	LS	\$ 35,000.00	\$ 35,000.00		\$ -

Total Work Completed to Date	\$ 843,492.00
Less 5% Retainage	\$ 42,174.60
WE RECOMMEND PAYMENT OF:	\$ 801,317.40

APPROVALS:

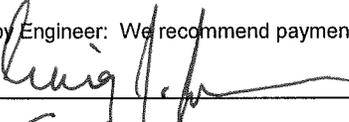
CONTRACTOR: CALDWELL

Certification by Contractor: I certify that all items and amounts are correct for the work completed to date.

Signed: 
 Title: Controller Date January 27, 2012

ENGINEER: HAKANSON ANDERSON

Certification by Engineer: We recommend payment for work and quantities as shown.

Signed: 
 Title: City Engineer Date 2/2/12

OWNER: CITY OF EAST BETHEL

Signed: _____
 Title: _____ Date _____



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 9.0 B.1

Agenda Item:

Pay Estimate #1 for the construction of Elevated Storage Tank No. 1

Requested Action:

Consider approval of Pay Estimate #1

Background Information:

Attached is a copy of Pay Estimate #1 to Caldwell Tank, Inc. for the construction of Elevated Storage Tank No. 1. The major pay items for this pay request include the tank design, foundation construction, tank piping and tank construction. The Pay Estimate includes payment for work completed to date minus a five percent retainage. We recommend partial payment of \$801,317.40. A summary of the recommended payment is as follows:

Total Work Completed to Date	\$843,492.00
Less 5% Retainage	<u>\$ 42,174.60</u>
Total payment	\$801,317.40

Attachments:

1. Pay Estimate #1

Fiscal Impact:

Staff is recommending payment of \$801,317.40 at this time. Payment for this project will be financed from the bond proceeds. Funds, as noted above, are available and appropriate for this project.

Recommendation(s):

Staff recommends Council consider approval of Pay Estimate #1 in the amount of \$801,317.40 for the construction of Elevated Storage Tank No. 1.

City Council Action

Motion by: _____

Second by: _____

Vote Yes:_____

Vote No:_____

No Action Required:_____



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 9.0 G.1

Agenda Item:

Ordinance 34, Second Series, Chapter 6, Alcoholic Beverages

Requested Action:

Consider amending Chapter 6, Alcoholic Beverages, Ordinance 34, Second Series

Background Information:

Per Council direction, staff was instructed to review Section 6-93 of the above ordinance, and recommend changes to Council that would provide additional clarification and discretion in the administration of penalties and fines under the ordinance.

This proposed Ordinance amendment would amend Section 6-93 of the Code of Ordinances of the City of East Bethel as submitted in the attachments and remain consistent with Council directives.

Attachment(s):

1. Proposed Amendment to Chapter 6, Article IV, Section 6-93 of the City Code
Chapter 6, Article IV, Section 6-93 of the City Code
2. Redline Amendment Version

Fiscal Impact:

None at this time

Recommendation(s):

Staff recommends City Council consider the approval of the amendments to Chapter 6, Article IV, Section 6-93 of the City Code as presented in the attachments.

City Council Action

Motion by: _____

Second by: _____

Vote Yes:_____

Vote No:_____

No Action Required:_____

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

ORDINANCE NO. 34, SECOND SERIES

**AN ORDINANCE AMENDING SECTION 6-93 OF THE CODE OF
ORDINANCES OF THE CITY OF EAST BETHEL, AFFECTING
ADMINISTRATIVE FINES AND PENALTIES**

The City Council of the City of East Bethel, Anoka County, Minnesota does hereby ordain as follows:

Section 1. Amendment. Sections 6-93 and 6-94 of the Code of Ordinances of the City of East Bethel is hereby amended to delete the same in their entirety and substitute the following therefore:

SEC. 6-93. RESPONSIBILITY.

- (a) **Actions of clerks, bartenders, and employees of licensees.** All licensees shall be responsible for the actions of their clerks, bartenders, and employees in regard to the sale of alcoholic beverages on the licensed premises. For the purposes of this article, the sale of such an item by any clerk, bartender, or employee shall be considered a sale by the licensee. Any director, governor, officer, manager or partners of a licensee shall be considered to be an employee of the licensee.

- (b) **Violations and penalties.** Notwithstanding the provisions of subsection (a) of this section any licensee involved in an alcohol compliance check violation or determined to have violated this article will be liable to pay an administrative penalty in addition to any penalty or license suspension or revocation imposed. The following penalty schedule is hereby adopted:
 - (1) A first violation will result in a \$500.00 administrative penalty to the licensee. The penalty assessed to the licensee will be waived if the licensee was not the individual clerk, bartender, or employee involved directly in the violation and if the licensee can provide proof within 14 days of the date of the violation that the clerk, bartender or employee involved had attended RBS (responsible beverage service) staff training approved by the city prior to the alleged offense.

 - (2) A second violation within 24 months of a prior violation will result in a \$1,000.00 administrative penalty to any licensee previously cited for a

violation of this article within the prior 24-month period. If the clerk, bartender, or employee cited in the case of such a subsequent violation has not been previously cited in the prior 24-month period, the administrative penalty of the licensee will be reduced to \$500.00 if the licensee can provide proof that its employees have attended staff ID training approved by the city within 14 days of the date of the violation. Failure to comply with these mandates may result in suspension or revocation of any license issued by the city.

- (3) Three or more violations within a 24-month period will result in a \$2,000.00 administrative penalty to any licensee previously cited for a violation of this article within the prior 24-month period. If the clerk, bartender, or employee cited in such a case of two prior violations has not been previously cited in the prior 24-month period, the administrative penalty of the licensee will be reduced to \$1,000.00 if the licensee can provide proof that its employees have attended staff ID training approved by the city within 14 days of the date of the violation. Failure to comply with these mandates may result in suspension or revocation of any license issued by the city.
- (4) Four or more violations within a 24-month period within a licensed establishment will result in a \$5,000.00 administrative penalty to the licensee. The licensee will also be required to provide proof that all of its employees serving or selling alcohol have attended staff ID training approved by the city within 14 days of the date of the violation. Failure to comply with these mandates may result in suspension or revocation of any license issued by the city.
- (5) All administrative fees imposed by this article are deemed payable within 20 days of the date of citation or not later than 20 days after the date of any written decision determining that a violation has occurred, after all appeals. Failure to pay any administrative fee imposed within the time limits set herein may result in a license suspension or revocation.

(c) **Community Service.** In addition to the above penalties, any licensee, who violates this article shall be required to serve eight hours of community service for a first offense, 20 hours of community service in the case of a second offense, 40 hours of community service in the case of a third offense, and 80 hours of community service in the case of a fourth offense.

A community service penalty imposed upon a licensee that is not a natural person must be performed by a managerial employee of the licensee and must be completed before the next renewal of the licensee's license to sell non-intoxicating or intoxicating alcoholic beverages in the city.

(d) **Citation process, right to a hearing and appeals.** Upon discovery of a violation of this article or pursuant to an alcohol compliance check, the licensee shall be issued a citation by city law enforcement authorities. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. All penalties and fees imposed by this article will be payable to the city clerk-treasurer. No administrative penalty may be imposed until the licensee have received written notice of the violation and the cited parties have been afforded an opportunity for a hearing. Any cited party that requests a hearing must do so in writing, detailing the party's reasons for believing he has a reasonable explanation for the alleged violation in mitigation of the administrative penalty, within ten days of the date of mailing of the written notice of violation. The cited party then will be afforded a hearing before a person authorized by the city council to conduct the hearing. A decision that a violation has occurred must be in writing and will be completed within ten days of the hearing. Appeals of any decision made of the hearing officer shall be pursued in the Minnesota Court of Appeals by Writ of Certiorari.

(e) **Right to obtain a transcript.** If a hearing is requested, it will not be transcribed unless all financial arrangements for transcription are made in advance with a certified court reporter by the person requesting the hearing. Furthermore, any person requesting that the hearing be transcribed agrees to provide the city with a copy of the transcript at no cost to the city.

Section 2. 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 for the City of East Bethel this 15th day of February, 2012.

For the City:

Richard Lawrence, Mayor

Attest:

Jack Davis, City Administrator

Adopted: February 15, 2012

Published:

Effective:

REDLINE OF ORDINANCE CHANGES

Sec. 6-93. - Responsibility.

(a)

Actions of clerks, bartenders, and employees of licensees. All licensees shall be responsible for the actions of their clerks, bartenders, and employees in regard to the sale of alcoholic beverages on the licensed premises. For the purposes of this article, the sale of such an item by any clerk, bartender, or employee shall be considered a sale by the licensee. Any director, governor, officer, manager or partners of a licensee shall be considered to be an employee of the licensee.

(b)

Violations and penalties. Notwithstanding the provisions of subsection (a) of this section, ~~the clerk, bartender, or employee~~ any licensee specifically involved in an alcohol compliance check violation or determined to have violated this article will be personally liable to pay an administrative penalty in addition to any penalty or license suspension or revocation imposed upon the licensee. The following penalty schedule is hereby adopted:

(1)

A first violation will result in a \$500.00 administrative penalty to the licensee, ~~and a \$250.00 administrative penalty to the individual clerk, bartender, or employee involved in the violation.~~ The penalty assessed to the licensee will be waived if the licensee was not the individual clerk, bartender, or employee involved directly in the violation and if the licensee can provide proof within 14 days of the date of the violation that the clerk, bartender or employee involved had attended RBS (responsible beverage service) staff training approved by the city prior to the alleged offense.

(2)

A second violation within 24 months of a prior violation will result in ~~a \$500.00 administrative penalty to any clerk, bartender or employee previously cited for the same or a similar violation of this article within the prior 24-month period and will result in a \$1,000.00 administrative penalty to any licensee previously cited for a violation of this article within the prior 24-month period.~~ If the clerk, bartender, or employee cited in the case of such a subsequent violation has not been previously cited in the prior 24-month period, the administrative penalty of the licensee will be reduced to \$500.00 if the licensee can provide proof that its employees have attended staff ID training approved by the city within 14 days of the date of the violation. Failure to comply with these mandates may result in suspension or revocation of any license issued by the city.

(3)

Three or more violations within a 24-month period will result in ~~a \$1,000.00 administrative penalty to any clerk, bartender, or employee previously cited for two or more violations of this article within the prior 24-month period and will result in a \$2,000.00 administrative penalty to any licensee previously cited for a violation of this article within the prior 24-month period.~~ If the clerk, bartender, or employee cited in such a case of two prior violations has not been previously cited in the prior 24-month period, the administrative penalty of the licensee will be reduced to \$1,000.00 if the licensee can provide proof that its employees have attended staff ID training approved by the city within 14 days of the date of the violation. Failure to comply with these mandates may result in suspension or revocation of any license issued by the city.

(4)

Four or more violations within a 24-month period within a licensed establishment will result in a \$5,000.00 administrative penalty to the licensee. The licensee will also be required to provide proof that its employees have attended staff ID training approved by the city within 14 days of the date of the violation. Failure to comply with these mandates may result in suspension or revocation of any license issued by the city.

(5)

~~In each instance where a clerk or bartender involved in a violation is also the licensee, the individual cited must pay the administrative penalty for any clerk, bartender, or employee in addition to the license holder penalty.~~

(56)

All administrative fees imposed by this article are deemed payable within 20 days of the date of citation or not later than 20 days after the date of any written decision determining that a violation has occurred, after all appeals. Failure to pay any administrative fee imposed within the time limits set herein may result in a license suspension or revocation.

(e)

~~Collection of administrative penalties imposed upon clerks, bartenders, or other employees. It shall be the responsibility of the employer licensee to assist the city with the collection of an administrative penalty imposed upon a clerk, bartender, or other employee of a licensee who has sold an alcoholic beverage to a person under the age of 21 years; if such an employee does not pay or make arrangements to pay an administrative penalty within ten days of imposition of the penalty, the employer licensee will be responsible for payment of the employee's penalty in addition to any penalty imposed upon the employer licensee.~~

(dd)

Community service. In addition to the above penalties, any ~~clerk, bartender, or employee, including a licensee if such be the case, licensee~~ who violates this article shall be required to serve eight hours of community service for a first offense, 20 hours of community service in the case of a second offense, 40 hours of community service in the case of a third offense, and 80 hours of community service in the case of a fourth offense.

A community service penalty imposed upon a licensee that is not a natural person must be performed by a ~~managerial~~ employee of the licensee and must be completed before the next renewal of the licensee's license to sell non-intoxicating or intoxicating alcoholic beverages in the city.

(ed)

Citation process, right to a hearing and appeals. Upon discovery of a violation of this article or pursuant to an alcohol compliance check, ~~the involved clerk, bartender, or employee and the~~ licensee shall be issued a citation by city law enforcement authorities. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. All penalties and fees imposed by this article will be payable to the city clerk-treasurer. No administrative penalty may be imposed until ~~the clerk, bartender, or employee and the~~ licensee have received written notice of the violation and the cited parties have been afforded an opportunity for a hearing. Any cited party that requests a hearing must do so in writing, detailing the party's reasons for believing he has a reasonable explanation for the alleged violation in mitigation of the administrative penalty, within ten days of the date of mailing of the written notice of violation. The cited party then will be afforded a hearing before a person authorized by the city council to conduct the hearing. A decision that a violation has occurred must be in writing and will be completed within ten days of the hearing. Appeals of any decision made of the hearing officer shall be filed within ten days in the district court for the jurisdiction of the city in which the alleged violation occurred.

(f)

Right to obtain a transcript. If a hearing is requested, it will not be transcribed unless all financial arrangements for transcription are made in advance with a certified court reporter by

the person requesting the hearing. Furthermore, any person requesting that the hearing be transcribed agrees to provide the city with a copy of the transcript at no cost to the city.

(Ord. No. 116, pt. D, § 5, 4-5-1978; Ord. No. 116H, § 2, 6-18-2003; Ord. No. 116I, §§ 1, 2, 5-7-2008; Ord. No. 11, Second Series, § 2, 7-1-2009)

Sec. 6-94. - Compliance checks and inspections.

All licensed premises shall be subject to inspection by the city's law enforcement officers or other authorized city officials during regular business hours. From time to time, but at least once per year, the city shall conduct alcohol compliance checks by engaging underage youth to enter licensed premises in the city to attempt to purchase alcoholic beverages. No minor or underage adult used in compliance checks shall attempt to use a false identification or theatrical makeup which misrepresents his age. All minors and underage adults lawfully engaged in a compliance check shall answer all questions about their age truthfully when asked by the licensee and shall produce any identification which he is asked to produce. In all instances, the minors or underage adults shall be accompanied by a city law enforcement officer or an authorized city official to the location of the compliance check.

(Ord. No. 116, pt. D, § 6, 4-5-1978; Ord. No. 116H, § 2, 6-18-2003)



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

9.0 G.2

Agenda Item:

Ordinance 35, Second Series, Chapter 18, Article IV, Regulating the Sale of Tobacco

Requested Action:

Consider amending Chapter 18, Article IV, Regulating the Sale of Tobacco Ordinance 35, Second Series

Background Information:

This proposed Ordinance amendment would amend Sections 18-180 and 18-181 of the Code of Ordinances of the City of East Bethel as submitted in the attachments and remain consistent with Council directives as to the administration of penalties and fines under the ordinance.

Attachment(s):

Proposed Amendment to Chapter 18, Article IV, Section 18-180 and 18-181 of the City Code
Chapter 18, Article IV, Section 18-180 and 18-181 of the City Code, Redline Amendment
Version

Fiscal Impact:

None at this time

Recommendation(s):

Staff recommends City Council consider the approval of the amendments to Chapter 18, Article IV, Section 18-180 and 18-181 of the City Code as presented in the attachments.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

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

ORDINANCE NO. 35, SECOND SERIES

**AN ORDINANCE AMENDING SECTION 18-180 and 18-181 OF THE CODE
OF ORDINANCES OF THE CITY OF EAST BETHEL, AFFECTING
ADMINISTRATIVE FINES AND PENALTIES**

The City Council of the City of East Bethel, Anoka County, Minnesota does hereby ordain as follows:

Section 1. Amendment. Sections 18-180, 18-181 of the Code of Ordinances of the City of East Bethel is hereby amended to delete the same in their entirety and substitute the following therefore:

SEC. 18-180. VIOLATION NOTICE; HEARING; APPEAL.

- (a) Notice. Upon discovery of a suspected violation, the alleged violator-licensee shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged violator-licensee of his right to be heard on the accusation.
- (b) Hearings. If, within ten (10) days of receiving notice, a licensee accused of violating this article so requests, a hearing shall be scheduled, the time and place of which shall be provided to the accused violator.
- (c) Hearing officer. The City Council or an appointed board, commission or representative shall serve as the hearing officer.
- (d) Decision. If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under Section 18-181, shall be recorded in writing, a copy of which shall be provided to the accused licensee. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such finds shall be recorded and a copy provided to the acquitted accused licensee.
- (e) Appeals. Appeals of any decision made of the hearing officer shall be pursued in the Minnesota Court of Appeals by Writ of Certiorari.

- (f) **Misdemeanor prosecution.** Nothing in this section shall prohibit the City from seeking prosecution as a misdemeanor for an alleged violation of this article.
- (g) **Continued violation.** Each violation, or illegal sale, shall constitute a separate offense.

SEC. 18-181. PENALTIES.

- (a) **Administrative civil penalties—Licensees.** If a licensee or an employee of a licensee is found to have sold tobacco to a person under the age of 18 years, the licensee shall be subject to an administrative penalty as follows:
 - (1) **First violation:** The city shall impose a civil fine of \$150.00. In addition the city may suspend the license for a period up to 20 days. The city may agree with the licensee to waive up to ten days of suspension at a rate of two days for every eight hours of community service performed by the licensee's employee.
 - (2) **Second violation within 24 months:** The city shall impose a civil fine of \$300.00. In addition the city may suspend the license for a period up to 40 days. The City may agree with the licensee to waive up to ten days of suspension at a rate of two days for every eight hours of community service performed by the licensee's employee.
 - (3) **Third violation within 24 months:** The City shall impose a civil fine of \$400.00 and suspend the license for a minimum period of 30 days, not to exceed one year.
 - (4) If the licensee chooses to perform community service, the community service must be performed by the licensee or an employee of the licensee and must be completed within 60 days of the imposition of the community service provision.
 - (5) A director, governor, officer, manager, or partner of a licensee shall be considered to be an employee of the licensee for the purpose of this subsection.
 - (6) The penalties provided for in this subsection shall apply to individuals who are licensees and who make such a sale in addition to any penalty imposed under subsection (a) above.
- (b) **Misdemeanors.** Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this article.

Section 2. 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 for the City of East Bethel this 15th day of February, 2012.

For the City:

Richard Lawrence, Mayor

Attest:

Jack Davis, City Administrator

Adopted: February 15, 2012

Published:

Effective:

REDLINE-Tobacco ordinance changes

Sec. 18-180. - Violation notice; hearing; appeal.

- (a) *Notice.* Upon discovery of a suspected violation, the alleged violator ~~licensee~~ shall be issued, either personally or by mail, a citation that sets forth the alleged violation and which shall inform the alleged ~~violator~~ ~~violator-licensee~~ of his right to be heard on the accusation.
- (b) *Hearings.* If, within ten days of receiving notice, a ~~licensee~~ ~~person~~ accused of violating this article so requests, a hearing shall be scheduled, the time and place of which shall be provided to the accused violator.
- (c) *Hearing officer.* The city council or an appointed board, commission or representative shall serve as the hearing officer.
- (d) *Decision.* If the hearing officer determines that a violation of this article did occur, that decision, along with the hearing officers reasons for finding a violation and the penalty to be imposed under section 18-181, shall be recorded in writing, a copy of which shall be provided to the accused ~~licensee~~ ~~violator~~. Likewise, if the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, such finds shall be recorded and a copy provided to the acquitted accused ~~licensee~~ ~~violator~~.
- (e) *Appeals.* Appeals of any decision made of the hearing officer shall be ~~pursued~~ ~~filed~~ in the Minnesota Court of Appeals by Writ of Certiorari, district court for the jurisdiction of the city in which the alleged violation occurred.
- (f) *Misdemeanor prosecution.* Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for an alleged violation of this article.
- (g) *Continued violation.* Each violation, or illegal sale, shall constitute a separate offense.

(Ord. No. 8C, § 10, 5-21-2003)

Sec. 18-181. - Penalties.

- (a) ~~Administrative civil penalties—Individuals.~~ Any person, including an individual licensee, who sells any ~~tobacco~~ product to a person under the age of 18 years is subject to an administrative penalty. The city shall impose administrative penalties as follows:
- (1) ~~First violation:~~ The city shall impose a civil fine of at least \$50.00 but not to exceed \$100.00. If the penalty imposed is greater than \$50.00 the city may agree with the individual to waive the amount over \$50.00 for eight hours of community service performed by the individual.
- (2) ~~Second violation within 24 months:~~ The city shall impose a civil fine of at least \$100.00 but not to exceed \$200.00. If the penalty imposed is greater than \$100.00 the

city may agree with the individual to waive the amount over \$100.00 for 16 hours of community service performed by the individual.

(3)

Third violation within 24 months: The city shall impose a civil fine of at least \$150.00 but not to exceed \$300.00. If the penalty imposed is greater than \$150.00 the city may agree with the individual to waive the amount over \$150.00 for 24 hours of community service performed by the individual.

(b)

Administrative civil penalties—Licensees. If a licensee or an employee of a licensee is found to have sold **tobacco** to a person under the age of 18 years, the licensee shall be subject to an administrative penalty as follows:

(1)

First violation: The city shall impose a civil fine of \$150.00. In addition the city may suspend the license for a period up to 20 days. The city may agree with the licensee to waive up to ten days of suspension at a rate of two days for every eight hours of community service performed by the licensee's employee.

(2)

Second violation within 24 months: The city shall impose a civil fine of \$300.00. In addition the city may suspend the license for a period up to 40 days. The city may agree with the licensee to waive up to ten days of suspension at a rate of two days for every eight hours of community service performed by the licensee's employee.

(3)

Third violation within 24 months: The city shall impose a civil fine of \$400.00 and suspend the license for a minimum period of 30 days, not to exceed one year.

(4)

If the licensee chooses to perform community service, the community service must be performed by the licensee or an employee of the licensee and must be completed within 60 days of the imposition of the community service provision.

(5)

A director, governor, officer, manager, or partner of a licensee shall be considered to be an employee of the licensee for the purpose of this subsection.

(6)

The penalties provided for in this subsection shall apply to individuals who are licensees and who make such a sale in addition to any penalty imposed under subsection (a) above.

(c)

~~*Collections of the administrative civil penalties of the employees or individuals.* It shall be the responsibility of the licensee to assist the city with the collection of the penalty from the clerk or individual who sold the **tobacco** to a person under the age of 18 years; if the individual does not pay or make arrangements to pay the administrative penalty within ten days of service of the violation, the establishment shall be responsible for payment of the individual's penalty as well.~~

(d)

Misdemeanors. Nothing in this section shall prohibit the city from seeking prosecution as a misdemeanor for any violation of this article.

(Ord. No. 8C, § 11, 5-21-2003; Ord. No. 8D, § 1, 5-7-2008; Ord. No. 25, Second Series, § 7, 6-16-2010)

Sec. 18-182. - Exceptions and defenses.

The following exceptions and defenses shall apply in the application of this article:

(1)

Ceremony. Nothing in this article shall prevent the providing of **tobacco, tobacco** products, or **tobacco**-related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony.

(2)

Proof of identification. It shall be an affirmative defense to the violation of this article if the licensee or individual making the sale relied in good faith upon proof of age as described by state law.

(Ord. No. 8C, § 12, 5-21-2003; Ord. No. 25, Second Series, § 8, 6-16-2010)



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

9.0 G.3

Agenda Item:

Business Location Proposal

Requested Action:

Consider the extension of an additional 90 days for the conditions of an offer to attract a service based business to the City

Background Information:

Council approved a proposal for a business prospect to City Council at their November 16, 2011 meeting. This business prospect had indicated that they would make a decision on the location of their facility by the no later than the end of December 2011. Due to the unpredictability of the site selection process, the business prospect has not concluded their decision on a location. The developer representing this prospect has requested that the terms approved by City Council for this prospect be extended an additional 90 days to allow the prospect to complete his final analysis for selection of a location for this business. The existing offer made by City Council will expire on February 16, 2012.

The terms and financial impacts of the approved offer are as listed below:

1.) Park Dedication Fees (5% of the assessed value of the property not to exceed \$4,000/acre. The assessed market value of the 15.02 acre is \$117,000 for 2011. This project will utilize approximately 5 acres of the total site. Therefore, the Park Dedication Fee for a 5 acre site subdivided from this parcel would be \$1,947.40 (5/15.02 x 117,000 x 0.05). Any change in acreage would result in a different amount for the Park Dedication Fee; and

2.) Building Permit Fees (to be determined upon submission of plans).

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

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

It is recommended that this facility be granted a “business relocation credit” of \$13,400 which would be credited against City fees for this project. The “business relocation credit” would be based on and available to any existing business that moves to the City from a previous location outside of the City of East Bethel and adds a minimum of \$2,000,000 to the tax base.

The costs for the SAC and WAC units would be as follows:

MCES SAC units, 10@ \$3,400	\$34,000
City SAC and WAC units, <u>10@ \$5,600</u>	<u>\$56,000</u>
Total SAC and WAC fees due upon issuance of a building permit	\$90,000

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

Lateral Benefit Assessment Charge, 10@ \$8,000	\$80,000
--	----------

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

Credit for deduct of street restoration costs from the LBAC	<\$21,600>
(\$80,000 X 0.27 = \$21,600)	

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

Park Dedication Fees (as described above)	\$ 1,947.40
MCES SAC units, 10@ \$3,400	\$34,000.00
City SAC and WAC units, <u>10@ \$5,600</u>	<u>\$56,000.00</u>
Lateral Benefit Assessment Charge, <u>10@ \$8,000</u>	\$80,000.00
Business Relocation Credit	<\$13,400>
Street restoration cost credit	< <u>\$21,600</u> >
Total City Fees Due (NIC building permit fees)	\$136,947.40

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

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

Attachment(s):

1. Project Map

Fiscal Impact:

As noted above with the following additions:

1. Based on a minimum valuation of \$2,000,000 this business would pay approximately \$17,000 annually in taxes to the city. The current City tax liability on this site is approximately \$200;
2. This project would provide 10 ERU's that would be approximately 13% of 2013 minimum goal;
3. This project would provide an additional customer that would generate approximately 100,000 gallons of effluent and water use for our new system which is challenged for customers. The addition of new connections is critical to meet our minimum flow requirements and avoid up to a \$150 surcharge on customers if minimum flow requirements can not be attained;
4. This project would have a multiplier effect on local business with the addition of a new employee base that could access services in the City; and;
5. The benefits to the City are in excess of the costs the City will forgo in granting credits for this project.

City Council granted the following to the developer as means to be competitive with other Cities relating to the recruiting of this business. This business plans to employ 60-75 persons and add a minimum of \$2,000,000 to the tax base:

1. Credit \$13,400 to the developer for a business relocation credit;
2. Credit \$21,600 to the developer on his lateral benefit assessment ;
3. Finance the balance of the lateral benefit assessment over a term of 10 years at an interest rate of 4.5 to 5.5 % through an assessment on the property with the interest rate to be determined by City Council;
4. Consider the use of property as permissible in the B-3 Zone;
5. Require no payment of ERU charges on the remaining undeveloped portion of this parcel until such time that it is subdivided and/or developed;
6. Require that Ulysses Street, while built to and meeting City standards, only be extended to access the proposed site and the undeveloped lot north of Village Bank at the developers expense; and,
7. This offer shall expire in 90 days unless renewed by City Council.

Attachment:

1. Proposed Site Map

Recommendation(s):

Staff is recommending a 90 day extension on the offer as listed above to the business prospect. This offer shall expire on May 16, 2012.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

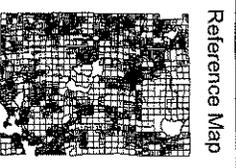


CITY OF EAST BETHEL
Civicsight Map

- MAP LEGEND:
- WATER
 - PARKS
 - PARCELS2

STREET EXTENSION
LIMIT

LIMIT OF EXISTING
STREET



Map Scale: 1 inch = 220 feet
 Map Date: 10/19/2011
 Data Date: June 24, 2011

Sources: EAST BETHEL GIS AND ANOKA COUNTY



Disclaimer: Enter Map Disclaimer Here



City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

9.0 G.4

Agenda Item:

S.R. Weidema Contract Change Order

Requested Action:

Consider approving a change order extending the S.R. Weidema contract to June 30, 2013 with conditions.

Background Information:

S.R. Weidema ceased work on the interceptor pipe installation portion of the Municipal Utilities Project due to soil migration issues being experienced in the section of the project north of 189th Avenue on December 9, 2011. There was no direction given to Weidema by the engineer, MCES or the City to stop work. The decision to stop was made solely on their own.

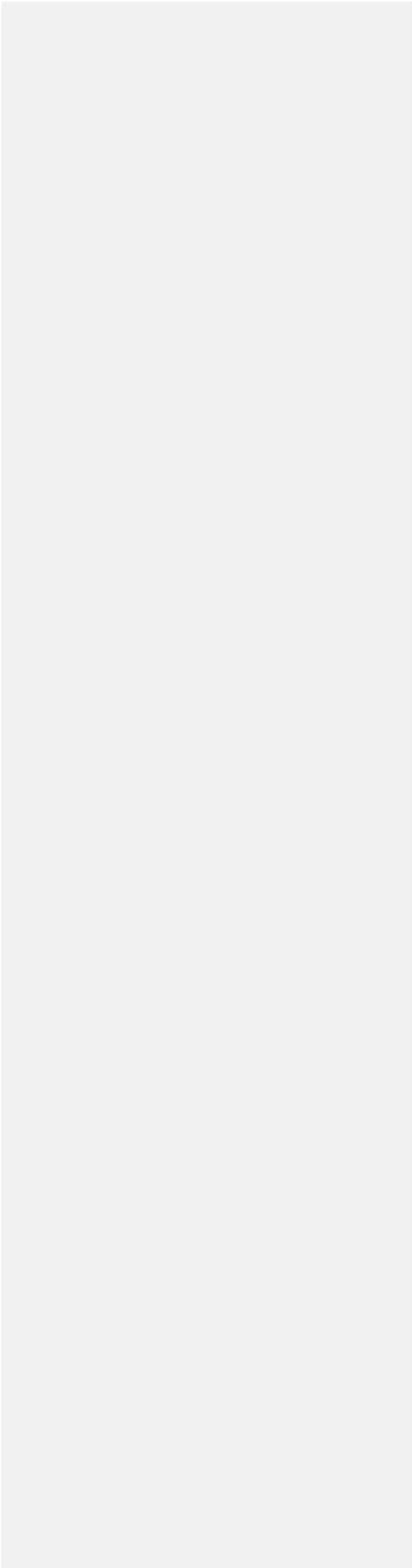
The issue, that S.R. Weidema based their decision to stop work, was a claim of a design problem associated with the construction methods detailed in the specifications of the contract. The engineer and MCES contend that the specifications and design are appropriate and it is the contractor's responsibility to install the pipe using the necessary means and methods for proper installation and protection of the pipe. The engineer and MCES further contend that pipe has not been installed in accordance with the plans and specifications for the 80' section of pipe and a manhole that is in contention and is located just north of 189th Avenue (this is the only portion of the project that is in question).

The engineer directed S. R. Weidema on December 19, 2011 to resume work on the project, replace the work that is considered defective and be advised that no additional compensation will be paid for this claim (design questions) as the work termination was directed by S.R. Weidema.

Since the issuance of that letter there have been numerous meetings with S.R. Weidema to resolve this matter. S.R. Weidema's request for additional compensation and a time and materials approach for payment for the remainder of the project were reviewed and summarily rejected by the City, MCES and the project engineer. A final letter was sent to S.R. Weidema on January 20, 2012 instructing them to:

- 1.) Promptly proceed with the work in accordance with the Contract Documents;
- 2.) Remove and reinstall the pipe north of manhole 109 and reinstall manhole 110; and
- 3.) Continue to work according to the schedule on all uncompleted work south of manhole 109, along 189th Avenue and all other items as previously identified.

S.R. Weidema returned to work on the project on January 24, 2012.



S.R. Weidema has submitted a change order request to extend the project completion date from July 31, 2012 to June 30, 2013 due to the mild winter weather that has prevented efficient and effective maneuverability of equipment in the swamp section of the project. This project was designed to have the installation of this section completed during a normal winter with deep frost conditions that would allow the operation of heavy equipment on a firm and stable base. The change order reflects no additional increase in the cost of the project. The attached letter from Bolton and Menk indicates that the enclosed Change Order No. 4 does not include any increased contract amount related to City water main facilities located in the subject area.

Even though S.R. Weidema did not perform any pipe installation work on the interceptor line for approximately 45 days, this delay may not have any material affect on the original completion date of the of the project. This contract was designed and bid with 2 “normal” winters factored for completion. With these considerations in mind, denial of the time extension request for the change order would be difficult to defend. This opinion is shared by both the project engineer and the MCES.

If the change order is approved the pipe completion date should be much earlier than the June 30, 2013 deadline. The additional time between the pipe and the contract completion date would be needed to finalize the project after the frost goes out of the ground. Activities such as final project cleanup, grading, completion of the service road to the manholes and revegetation would be completed in May and June of 2013.

MCES signed the original change order on January 26, 2012. However, due to impacts to the City, conditions have been proposed to that change order that would address the consequential impacts to the City. These conditions have been reviewed and approved verbally by MCES.

Attachment(s):

1. Bolton & Menk Cover Letter for Change Order # 4
2. Change Order # 4
3. Water Sewer Bond Cash Flows Projection 1
4. Water Sewer Bond Cash Flows Projection 2
5. Project Correspondence
6. Water Treatment Plant Utilities

Fiscal Impact:

There would be no increased costs to the City for the water main portion of the contract if the change order is approved. Any additional cost would be on the sewer portion of the work and this would be borne by MCES as indicated in previous documentation that was sent to City Council. MCES would re-open discussions regarding the City's responsibility to MCES for payment of the 100 SAC units for 2012, the individual SAC charges of \$3,300 which are to begin in 2012 and the flow requirements that are contractual obligations.

If the change order is approved, our bond cash flow projections would be altered under the assumptions presented in the attachment, Water Sewer Bond Cash Flows Projection 2. These projections reflect a deficit of \$557,092 in 2013 with continuing and increasing deficits throughout the 5 year projection period. . Please keep in mind that this cash flow scenario is a more conservative estimate of the effect of the delay in the project and varying conditions or changes in the economic development process and/or the economy could substantially change this presentation of conditions. These projections do not account for revenues from assessments. We do not know at this time what those amounts will be. Even though there will be additional

revenues from this source, they could be easily offset by any reduction in the projections for ERU's that are estimated at 200 in 2015 and 2016. For these reasons this source of revenue was not included in the projection.

Also attached is Water Sewer Bond Cash Flows Projection 1, which provides a scenario, that under the assumptions considered and including the assumption that the project would be completed by July 31, 2012, projects a maximum deficit of \$557,180 in 2014. Even though deficits would continue in 2015 and 2016, they would decrease to \$93,268 and \$394,356 respectively. Again, these projections can change upon the potential assessments that could be collected as a result of the assessment process or a change in the amount of SAC charges that could occur during the projection period.

Other items of potential additional cost to the City would relate to the provision of water service to users in the project area that would require this service prior to the extended project completion date of June 30, 2013. The request for service would have to be analyzed on a case by case basis to determine costs for alternative water supplies for a period of up to one year should connections be required to the system during this time period. Sewer service could still be provided in the area south of 189th Avenue.

One remaining item that must be resolved is the scheduling of the extension of utilities to the water treatment plant. These services are in S.R. Weidema's contract and must be in place to permit the construction and execution of the contract of the water treatment plant. Normally, this would be one of the last segments of the project to be completed but that is under the condition that the project would have been completed as originally contracted. Under the current circumstances, a time extension will necessitate altering the order of the normal progression and sequence of the line extension to prevent any delays on the City's contract with MBI for the water treatment plant.

Denial of the change order could place the City at risk for additional project time delays, potential increases in project costs, the risks and costs associated with litigation and the further delay of revenues required for bond payments for the project.

Recommendation(s):

It is the opinion of Staff that approving the request for a time extension on the contract and its known implications is to the City's benefit in comparison to the consequences that could occur as an outcome of the denial of the change order.

Staff recommends that City Council approve the change order extending the project completion date from July 31, 2011 to June 30, 2012, as submitted by the project engineer, with the following conditions ;

- A. The change order must be approved by the Metropolitan Council in accordance with the Construction Cooperation Agreement between the Metropolitan Council and the City of East Bethel;
- B. Completion of the sewer and water facilities in the vicinity of the City Water Treatment Facility (WTF) to facilitate the connection of the Water Treatment Facility to the Water Distribution System must be achieved by May 1, 2012. Any disruptions to contractor's original schedule to accomplish this and the remaining MCES work will not result in additional cost to the contract or the City;

- C. Substantial completion of the water pipes/lines and distribution system (so that the water system is charged and fully operational) by December 1, 2012. Any disruptions to contractor's original schedule to accomplish this and the remaining MCES work would not result in additional cost to the contract or to the City;
- D. Should the Water Distribution System not be fully operational by December 1, 2012, the contractor must provide at his expense temporary water service to all properties ready to connect or connected to the city water system with a flow rate of 2,000 GPM and with a residual main pressure of 60 PSI until such time as the city Water Distribution System is made fully operational; and
- E. It is understood by all parties associated with this project that it is desired that the project be completed as early as practicable and that the completion date extensions associated with this change order are viewed as maximum dates. To this end, it is agreed that when favorable construction conditions exist, the contractor shall be on site diligently pursuing completion of the project within the context of typical operations of a heavy commercial construction company.

Comment [MV1]:

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



BOLTON & MENK, INC.[®]

Consulting Engineers & Surveyors

2638 Shadow Lane, Suite 200 • Chaska, MN 55318-1172

Phone (952) 448-8838 • Fax (952) 448-8805

www.bolton-menk.com

January 24, 2012

City of East Bethel
Attn: Mr. Jack Davis
2241 221st Avenue NE
East Bethel, MN 55011

RE: Phase I, Project 1 Utility Improvements
& East Bethel Gravity Interceptor & Discharge

Honorable Mayor and City Council Members:

Enclosed is Change Order No. 4 for the above referenced project. Change Order No. 4 consists of extending the Contract completion date from July 31, 2012, to June 30, 2013. The completion date extension is associated with the mild winter temperatures experienced this year, which has contributed to difficulties in constructing the pipe located in the "swamp area" located along TH 65, north of 189th Avenue.

The enclosed Change Order No. 4 does not include any increased contract amount related to City watermain facilities located in the subject area.

Respectfully Submitted,

John K. Swanson
BOLTON & MENK, INC.

SECTION 00991 – CHANGE ORDER

(Instructions on reverse side)

No. 4

PROJECT: Phase I Project 1 Utility Improvements & East Bethel Gravity Interceptor & Discharge, MCES
Project No. 801621

DATE OF ISSUANCE: 1/24/12

EFFECTIVE DATE: 1/24/12

OWNER: City of East Bethel

ENGINEER'S Project No.: C12.100028

CONTRACTOR: S.R. Weidema, Inc.

ENGINEER: John K. Swanson, P.E.

You are directed to make the following changes in the Contract Documents.

Description:

Revise completion date.

Reason for Change Order:

Mild winter weather reducing frozen conditions

Attachments: (List documents supporting change)

N/A

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price <u>\$11,686,468.20</u>	Original Contract Times Completion Date : <u>7/31/12</u> days or dates Ready for final payment : _____ days or dates
Net changes from previous Change Orders No. <u>1</u> to No. <u>3</u> & <u>extra work</u> <u>\$361,899.45</u>	Net changes from previous Change Orders No. <u>1</u> to No. <u>3</u> & <u>extra work</u> <u>0</u> days
Contract Price Prior to this Change Order <u>\$12,048,367.65</u>	Contract Times prior to this Change Order Completion Date : <u>7/31/12</u> days or dates Ready for final payment : _____ days or dates
Net Increase (Increase/Decrease/No Change) of this Change Order <u>\$0.00</u>	Net (Increase/Decrease/No Change) of this Change Order Completion Date : <u>6/30/13</u> days or dates Ready for final payment : _____ days or dates
Contract Price with all approved Change Orders <u>\$12,048,367.65</u>	Contract Times with all approved Change Orders Completion Date : <u>6/30/13</u> days or dates Ready for final payment : _____ days or dates

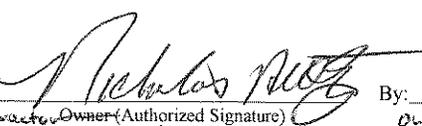
RECOMMENDED:

APPROVED:

ACCEPTED:

By: 

Engineer (Authorized Signature)
Date: 1/24/12

By: 

Contractor Owner (Authorized Signature)
Date: 1/25/12

By: _____
Owner-Contractor (Authorized Signature)
Date: _____

ACCEPTED:

By: Bryce J. Pickart
M/CES (Authorized Signature)

Date: 1/25/2012

EJCDC No. 1910c8-B (1990 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America.

CHANGE ORDER

INSTRUCTIONS

A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Contract Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating change order items to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed, any effect of a Change Order thereon should be addressed.

For supplemental instructions and monitor changes not involving a change in the Contract Price or Contract Times, a Field Order may be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer initiates the form, including a description of the changes involved and attachment based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Contractor for approval. After approval by Contractor, all copies should be sent to Owner for approval. Engineer should make distribution of executed copies after approval by Owner.

If a change only applies to Contract Price or to Contract Times, cross out the part of the tabulation that does not apply.

City of East Bethel

Water Sewer Bond Cash Flows

Projection 1

2012	Sources	Uses	Balance
Beginning Cash Balances			\$950,200
Debt Payments		\$798,904	\$151,296
Ending Cash Balances			\$151,296
2013			
Beginning Cash Balances			\$151,296
Debt Payments		\$708,388	-\$557,092
55 Connections fees (\$5,600/ERU)	\$308,000		-\$249,092
Ending Cash Balances			-\$249,092
2014			
Beginning Cash Balances			-\$249,092
55 Connections fees (\$5,600/ERU)	\$308,000		\$58,908
2010A & B Special Assessment Income	\$72,300		\$131,208
Debt Payments		\$708,388	-\$577,180
Ending Cash Balances			-\$577,180
2015			
Beginning Cash Balances			-\$577,180
200 Connections fees (\$5,600/ERU)	\$1,120,000		\$542,820
2010A & B Special Assessment Income	\$72,300		\$615,120
Debt Payments		\$708,388	-\$93,268
Ending Cash Balances			-\$93,268
2016			
Beginning Cash Balances			-\$93,268
200 Connections fees (\$5,600/ERU)	\$1,120,000		\$1,026,732
2010A & B Special Assessment Income	\$72,300		\$1,099,032
Debt Payments		\$1,493,388	-\$394,356
Ending Cash Balances			-\$394,356

Assumptions:

ERUs - Used Bolton & Menk 10/6/2010 presentation less 39 (Water treatment plant) Delayed one year
ERUs include NO ERU reductions & NO 2012 Connections

2010A & B Special Assessment Income-B&M 10/6/2010 presentation less City assessment
Debt payments only - does not consider operations

Delayed Special Assessment Income until 2014

City of East Bethel Water Sewer Bond Cash Flows Projection 2

2012	Sources	Uses	Balance
Beginning Cash Balances			\$950,200
Debt Payments		\$798,904	\$151,296
Ending Cash Balances			\$151,296
2013			
Beginning Cash Balances			\$151,296
Debt Payments		\$708,388	-\$557,092
Ending Cash Balances			-\$557,092
2014			
Beginning Cash Balances			-\$557,092
55 Connections fees (\$5,600/ERU)	\$308,000		-\$249,092
2010A & B Special Assessment Income	\$72,300		-\$176,792
Debt Payments		\$708,388	-\$885,180
Ending Cash Balances			-\$885,180
2015			
Beginning Cash Balances			-\$885,180
55 Connections fees (\$5,600/ERU)	\$308,000		-\$577,180
2010A & B Special Assessment Income	\$72,300		-\$504,880
Debt Payments		\$708,388	-\$1,213,268
Ending Cash Balances			-\$1,213,268
2016			
Beginning Cash Balances			-\$1,213,268
200 Connections fees (\$5,600/ERU)	\$1,120,000		-\$93,268
2010A & B Special Assessment Income	\$72,300		-\$20,968
Debt Payments		\$1,493,388	-\$1,514,356
Ending Cash Balances			-\$1,514,356

Assumptions:

ERUs - Used Bolton & Menk 10/6/2010 presentation less 39 (Water treatment plant) Delayed one year
ERUs include NO ERU reductions & NO 2012 or 2013 Connections

2010A & B Special Assessment Income-B&M 10/6/2010 presentation less City assessment
Debt payments only - does not consider operations

Delayed Special Assessment Income & Connections until 2014

City of East Bethel

Water Sewer Bond Cash Flows

Projection 1

2012	Sources	Uses	Balance
Beginning Cash Balances			\$950,200
Debt Payments		\$798,904	\$151,296
Ending Cash Balances			\$151,296
2013			
Beginning Cash Balances			\$151,296
Debt Payments		\$708,388	-\$557,092
55 Connections fees (\$5,600/ERU)	\$308,000		-\$249,092
Ending Cash Balances			-\$249,092
2014			
Beginning Cash Balances			-\$249,092
55 Connections fees (\$5,600/ERU)	\$308,000		\$58,908
2010A & B Special Assessment Income	\$72,300		\$131,208
Debt Payments		\$708,388	-\$577,180
Ending Cash Balances			-\$577,180
2015			
Beginning Cash Balances			-\$577,180
200 Connections fees (\$5,600/ERU)	\$1,120,000		\$542,820
2010A & B Special Assessment Income	\$72,300		\$615,120
Debt Payments		\$708,388	-\$93,268
Ending Cash Balances			-\$93,268
2016			
Beginning Cash Balances			-\$93,268
200 Connections fees (\$5,600/ERU)	\$1,120,000		\$1,026,732
2010A & B Special Assessment Income	\$72,300		\$1,099,032
Debt Payments		\$1,493,388	-\$394,356
Ending Cash Balances			-\$394,356

Assumptions:

ERUs - Used Bolton & Menk 10/6/2010 presentation less 39 (Water treatment plant) Delayed one year
ERUs include NO ERU reductions & NO 2012 Connections

2010A & B Special Assessment Income-B&M 10/6/2010 presentation less City assessment
Debt payments only - does not consider operations

Delayed Special Assessment Income until 2014

City of East Bethel Water Sewer Bond Cash Flows Projection 2

2012	Sources	Uses	Balance
Beginning Cash Balances			\$950,200
Debt Payments		\$798,904	\$151,296
Ending Cash Balances			\$151,296
2013			
Beginning Cash Balances			\$151,296
Debt Payments		\$708,388	-\$557,092
Ending Cash Balances			-\$557,092
2014			
Beginning Cash Balances			-\$557,092
55 Connections fees (\$5,600/ERU)	\$308,000		-\$249,092
2010A & B Special Assessment Income	\$72,300		-\$176,792
Debt Payments		\$708,388	-\$885,180
Ending Cash Balances			-\$885,180
2015			
Beginning Cash Balances			-\$885,180
55 Connections fees (\$5,600/ERU)	\$308,000		-\$577,180
2010A & B Special Assessment Income	\$72,300		-\$504,880
Debt Payments		\$708,388	-\$1,213,268
Ending Cash Balances			-\$1,213,268
2016			
Beginning Cash Balances			-\$1,213,268
200 Connections fees (\$5,600/ERU)	\$1,120,000		-\$93,268
2010A & B Special Assessment Income	\$72,300		-\$20,968
Debt Payments		\$1,493,388	-\$1,514,356
Ending Cash Balances			-\$1,514,356

Assumptions:

ERUs - Used Bolton & Menk 10/6/2010 presentation less 39 (Water treatment plant) Delayed one year
ERUs include NO ERU reductions & NO 2012 or 2013 Connections

2010A & B Special Assessment Income-B&M 10/6/2010 presentation less City assessment
Debt payments only - does not consider operations

Delayed Special Assessment Income & Connections until 2014

Jack Davis

From: Craig Jochum [CraigJ@HAA-inc.com]
Sent: Friday, January 27, 2012 10:19 AM
To: Jack Davis
Cc: Pickart, Bryce; 'Roth, James'; 'Kreg Schmidt'; 'John Swanson'
Subject: WTP Coordination
Attachments: WTP Utility Plan.pdf

Jack:

Attached is the utility plan for the Water Treatment Facility. The highlighted water and sewer are the portions that Weidema will be constructing. A portion of these facilities will need to be installed in the spring of 2012 to avoid a delay claim from MBI.

Craig J. Jochum, President
3601 Thurston Avenue
Anoka, MN 55303
(763) 852-0485 Direct
(763) 427-5860 Phone
(763) 427-0520 Fax



Jack Davis

Subject: FW: Weidema Change Order

From: Pickart, Bryce [<mailto:bryce.pickart@metc.state.mn.us>]
Sent: Thursday, January 26, 2012 11:02 AM
To: Jack Davis
Subject: RE: Weidema Change Order

The agreement on SAC is an integration of issues, such as forecasts, capital costs, SAC rate, etc. The City would be better served to wait on re-opening until the project has gone into service. Call me later if you want to discuss. I have a meeting now.

Bryce

From: Jack Davis [<mailto:jack.davis@ci.east-bethel.mn.us>]
Sent: Thursday, January 26, 2012 10:51 AM
To: Pickart, Bryce
Subject: RE: Weidema Change Order

Bryce,

How will the contract extension affect the City's responsibility to MCES for 100 SAC units for 2012 that are forecast for predicting MCES SAC revenue. Would the contract extension alter the projected SAC fees of \$3,300 which are to begin in 2012 and increase 3% annually. Would these items and the flow requirements be altered to reflect the delay in the project? Thanks.

Jack

From: Pickart, Bryce [<mailto:bryce.pickart@metc.state.mn.us>]
Sent: Thursday, January 26, 2012 10:04 AM
To: 'Kreg Schmidt'; Jack Davis
Subject: RE: Weidema Change Order

Regarding costs, Weidema will request costs for the time extension, but it will take time to resolve how much we can agree to. Thus, the cost would be a separate change order, so that we can move forward now. Since the problem relates to our gravity sewer, the costs would be born by MCES.

I agree that we have no basis to deny the claim for a time extension.

I agree with Kreg on the June 2013 date.

I signed the change order a few minutes ago

Bryce

From: Kreg Schmidt [<mailto:kregsc@bolton-menk.com>]
Sent: Thursday, January 26, 2012 8:45 AM

To: Jack Davis
Cc: Pickart, Bryce
Subject: Re: Weidema Change Order

Jack..., please see the below.

Kreg Schmidt
Bolton & Menk, Inc.

Sent from my iPhone

On Jan 26, 2012, at 7:20 AM, "Jack Davis" <jack.davis@ci.east-bethel.mn.us> wrote:

Bryce and Kreg,

I need your opinion to answer some questions I know will arise when Council considers the approval of the Weidema Change Order;

1.) We will need some direct statement that the City's cost for their portion of the project will not increase due to the change order. This will need to be stated on the change order or in another form from Weidema;

Kreg S. Comments: "The change order shows no increase in cost and we stated it in our letter. I will talk to Weidema about getting a letter that states the same relative to the watermain construction unless Bryce has issues with that?"

2.) What is the possibility of successfully defending a denial of the change order; and

Kreg S. Comments: "I believe there has been a change of conditions to the contract in that there was 2 winters in the contract when Weidema bid the project. As such, the claim asking for additional time will be very difficult to deny as Weidema will have a very good case for it."

3.) Would it be defensible to approve Weidema's change order but deduct the time they stopped work on the project (December 9, 2011 to January 23, 2012-- 44 days) from the proposed June 30, 2013 extension request.

Kreg S. Comments: "I want to give Weidema a date they can hit. I don't want to do this again. They will need some time after the frost goes out of the ground to completely finalize the project. This is why I feel the end of June is a good idea and able to achieve. I do, however, think it is possible to have a "pipe completion" date that is a bit earlier if we want to complicate things in that way. I don't think it will have any effective influence on when the pipe will actually get constructed but it may make people feel better.

My thoughts!"

Jack Davis

From: Jack Davis
Sent: Thursday, February 09, 2012 5:50 PM
To: 'richard.lawrence@ci.east-bethel.mn.us'; 'bbadger222@aol.com'; Robert H. DeRocheJr; Heidi Moegerle; Steve Voss; 'Mark Vierling'
Cc: 'Kreg Schmidt'; 'Craig Jochum'; 'Roth, James'
Subject: Weidema change order #4

I met with Jim Roth, Adam Winiarczyk and Mike Rolfe of MCES, Scott Weidema, Craig Jochum and Kreg Schmidt and John Swanson this afternoon to discuss the Weidema extension request. It is the consensus of this group that the sewer cannot be completed without the time extension as previously presented. The situation in respect to the water service needs of Aggressive Hydraulics was explained and it was determined that with plan and scheduling changes, completing the water portion of the project can be done by 12-1-12. Here's what was proposed and tentatively accepted by MCES and Weidema:

- 1.) the water portion of the project will be completed by 12-1-12. If this deadline is not met, S.R. Weidema will be responsible for providing temporary service with a flow rate of 2,000 gpm and a residual pressure of 60 PSI at their expense;
- 2.) Weidema can work the waterline portion of the project out of sequence and without request for additional compensation to accommodate the deadline;
- 3.) MCES will permit the shift of the sewer along Viking Boulevard 5' to south to accommodate the installation of the water line independent of the sewer;
- 4.) There will no cost increase on the waterline to the City;
- 5.) Weidema will complete the utilities in the vicinity of the Water Treatment Plant by May 1, 2012 to permit this project to proceed as scheduled;

Weidema also indicated that it was their intent to add a second crew to begin work on the section of sewer north of 189th Ave. They also indicated that they would be working this weekend to "pound the frost deeper" in the section along Viking Boulevard. There was a positive attitude of cooperation on the part of S.R. Weidema at today's meeting and an increased sense of urgency to complete the project in a timely manner. Weidema will notify us tomorrow after field verification of the sequential scheduling proposals if there are any problems with their tentative agreement to the conditions described above.

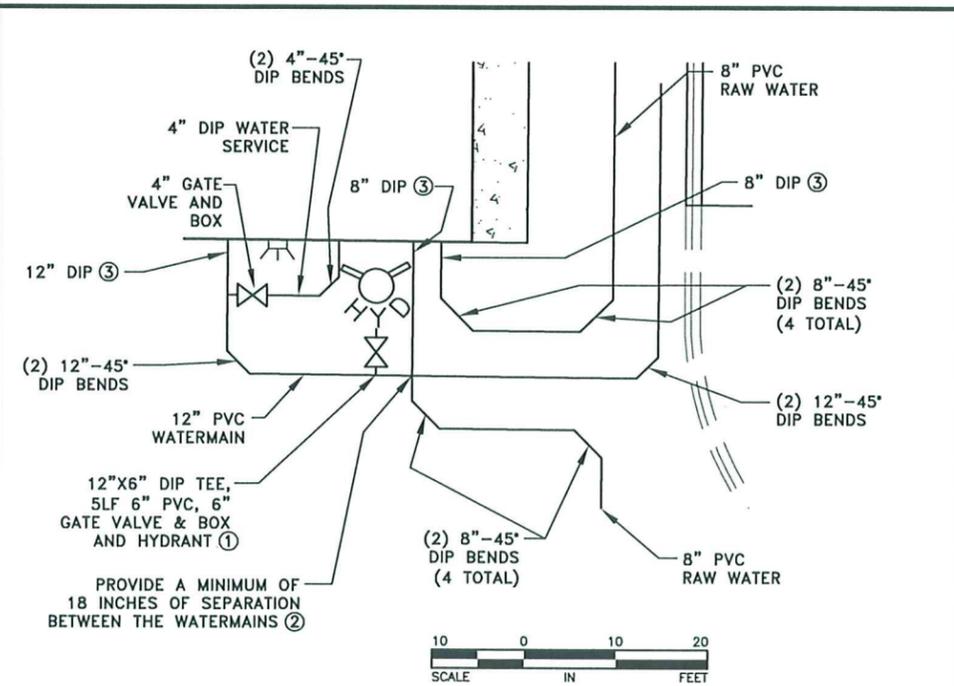
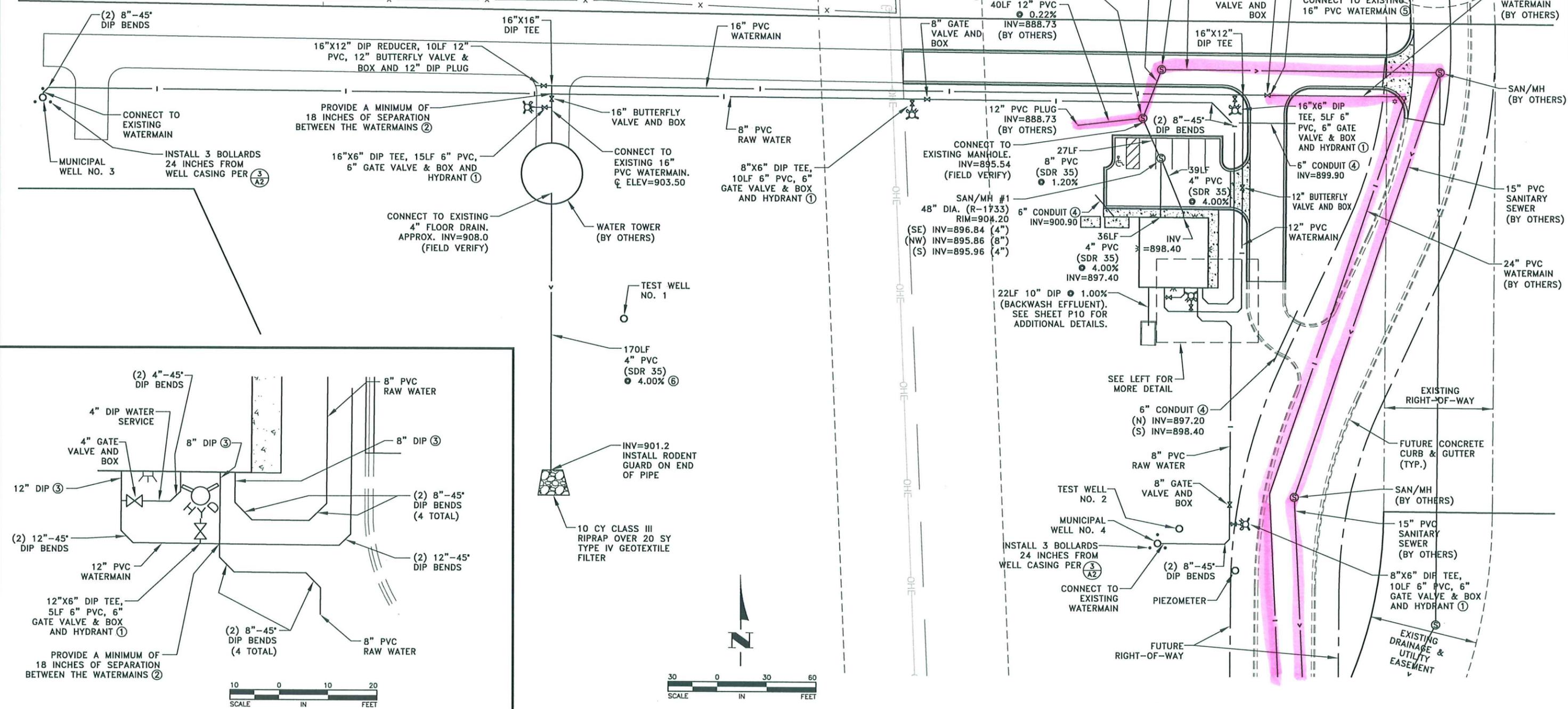
Jack

GENERAL NOTES:

1. MAINTAIN A MINIMUM OF 7.5 FEET OF COVER OVER ALL WATERMAIN.
2. TRACER WIRE SHALL BE PLACED WITH ALL PVC WATERMAIN. TRACER WIRE SHALL BE 8 GAUGE SINGLE STRAND WIRE WITH PLASTIC JACKET, TYPE TW OR THW. IT IS REQUIRED THAT THE TRACER WIRE CARRY A RADIO SIGNAL TO AID IN LOCATING BURIED WATERMAIN. TRACER WIRE SHALL BE COPPER CONDUCTOR INSULATED WITH MEDIUM DENSITY POLYETHYLENE AND SHALL BE IN ACCORDANCE WITH ASTM B 1 AND B 3 FOR COPPER WIRE AND ASTM D 1248 FOR POLYETHYLENE. THE TRACER WIRE SHALL BE BROUGHT TO THE SURFACE AT WELL NO. 3, WELL NO. 4, HYDRANTS AND AT THE WATER TREATMENT PLANT. THE TRACER WIRE SHALL BE TERMINATED AT EACH END WITH A BLUE RHINO TRIVIEW TRACER PED WITH EXTERNAL TERMINALS OR APPROVED EQUAL. INSTALLATION SHALL BE WITH U-CHANNEL POSTS PER SUPPLIERS INSTALLATION INSTRUCTIONS. INSTALLATION OF TRACER WIRE SHALL BE INCIDENTAL.
3. SEE SHEET C10 FOR UTILITY DETAILS.

REFERENCE NOTES:

- ① SEE ¹/_{C10} FOR HYDRANT DETAIL.
- ② THIS WORK SHALL BE INCIDENTAL.
- ③ EXTEND DIP 5 FEET PAST BUILDING FOOTING. USE PVC WATERMAIN AFTER THAT POINT. ALL DIP PIPE INCLUDING WATER SERVICE SHALL BE INCLUDED WITH BID ITEM 2100-WATER TREATMENT PLANT NO. 1.
- ④ CONDUIT WILL BE SUPPLIED BY CONNEXUS ENERGY. CONTRACTOR SHALL INSTALL CONDUIT AT THE ELEVATIONS SHOWN. THIS WORK SHALL BE INCIDENTAL.
- ⑤ REMOVING THE PLUG AND DRAINING THE WATERMAIN SHALL BE INCIDENTAL.
- ⑥ ORGANIC SOILS MAY BE ENCOUNTERED UNDER PIPE. CONTRACTOR WILL BE PAID COMMON EXCAVATION FOR SUBCUT OF ORGANIC SOILS UNDER PIPE TO A MAXIMUM WIDTH OF 4 FEET AND GRANULAR BORROW TO ONE FOOT ABOVE PIPE TO A MAXIMUM WIDTH OF 4 FEET FOR REPLACEMENT OF ORGANIC SOILS.



DATE	REVISION
8/25/11	ISSUED FOR PERMIT REVIEW
9/23/11	ISSUED FOR CONSTRUCTION
11/16/11	ADDED BOLLARDS AT WELLS AND HYDRANTS ON RAW WATER LINES
12/16/11	REVISED WTP SIZE, BACKWASH EFFLUENT PIPE AND UTILITIES

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

Craig J. Kochum, P.E.
 Date 7/15/11 Lic. No. 23461

DESIGNED BY: TAE
 DRAWN BY: TAE
 CHECKED BY: CJJ

Hakanson Anderson
 Civil Engineers and Land Surveyors
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**EAST BETHEL
 WATER TREATMENT PLANT NO. 1**

UTILITY PLAN

CITY OF EAST BETHEL, MINNESOTA

SHEET C5 OF 10 SHEETS
 EB504

Jan 27, 2012 - 9:57am
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City of East Bethel City Council Agenda Information

Date:

February 15, 2012

Agenda Item Number:

Item 10.0 C

Agenda Item:

Closed Session Project I Utilities Improvements

Requested Action:

Consider closing the regular session for an Attorney/Client discussion regarding the Project I Utilities contract.

Background Information:

The session is closed pursuant to Minnesota Statutes 13D.05, Subd. 3.

Fiscal Impact:

None

Recommendation(s):

Staff is recommending closing the regular session to closed session pursuant to Minnesota Statutes 13D.05, Subd 3 for an Attorney/Client discussion of the Project I Utilities Improvements

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____



PUBLIC FORUM SIGN UP SHEET

February 15, 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.

NAME	ADDRESS	PHONE NUMBER	TOPIC

