

City of East Bethel

City Council Agenda

Regular Council Meeting – 7:30 p.m.

Date: September 21, 2011



Item

- 7:30 PM **1.0 Call to Order**
- 7:31 PM **2.0 Pledge of Allegiance**
- 7:32 PM **3.0 Adopt Agenda**
- 7:33 PM **4.0 Reports/Presentation**
- Page 1-3 A. Sheriff's Report
- Page 4 B. Tanner Balfany – For Service on Roads Commission
- Page 5 C. Brian Bezanson – For Service on Roads Commission
- Page 6-11 D. US Cable – Steve Johnson – Resolution 2011-46 Allowing and Approving the Assignment of the Cable Franchise and System Now Operated by US Cable of Coastal – Texas, L.P. to Midcontinent Communications
- 7:53 PM **5.0 Public Forum**
- 8:23 PM **6.0 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 14-17 A. Approve Bills
- Page 18-19 B. Meeting Minutes, September 7, 2011 Regular Meeting
- Page 20-31 C. Meeting Minutes, August 24, 2011 Work Meeting
- Page 32-33 D. Resolution 2011-47 Setting Public Hearing Date – Delinquent Accounts
- E. Accept Fire Fighter Resignation
- F. Temporary Front Desk Assistance
- New Business**
- 7.0 Commission, Association and Task Force Reports**
- 8:28 PM A. EDA Commission
- Page 34-38 1. EDA By-law Amendments
- Page 39-48 2. RFP for Brand and Marketing Consulting Services
- 8:38 PM B. Planning Commission
- Page 49-55 1. Meeting Minutes, August 23, 2011
- 8:40 PM C. Park Commission
- Page 56-62 1. Meeting Minutes, August 10, 2011
- D. Road Commission (**No Report**)
- 8.0 Department Reports**
- 8:42 PM A. Community Development (**No Report**)
- B. Engineer (**No Report**)
- C. Attorney (**No Report**)
- D. Finance (**No Report**)
- E. Public Works (**No Report**)

9:00 PM F. Fire Department (**No Report**)
Page 63-85 G. City Administrator
1. BDM Compensation

9.0 Other

9:20 PM A. Council Reports
9:30 PM B. Other
9:35 PM Page 86 C. Closed Session – GRE Litigation

10:15 PM **10.0 Adjourn**



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 4.0 A

Agenda Item:

Monthly Sheriff's Report

Requested Action:

Information Only

Background Information:

Lieutenant Orlando will review the monthly statistics and report on activities for the month of August, 2011.

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 – AUGUST 2011

ITEM	AUGUST	JULY	YTD 2011	AUGUST YTD 2010
Radio Calls	479	448	3,233	3,257
Incident Reports	440	470	2,908	3,034
Burglaries	10	7	35	34
Thefts	29	34	154	161
Crim.Sex Cond.	0	0	4	7
Assault	4	7	23	21
Dam to Prop.	10	13	60	73
Harr. Comm.	6	3	27	23
Felony Arrests	1	16	42	31
Gross Mis.	1	2	5	4
Misd. Arrests	5	19	66	133
DUI Arrests	7	8	42	50
Domestic Arr.	5	1	19	20
Warrant Arr.	3	10	39	46
Traffic Arr.	105	140	646	627

**CITY OF EAST BETHEL – AUGUST 2011
COMMUNITY SERVICE OFFICERS**

ITEM	AUGUST	JULY	YTD 2011	AUGUST YTD 2010
Radio Calls	15	14	109	104
Incident Reports	14	18	117	108
Accident Assist	2	1	14	6
Veh. Lock Out	4	2	56	11
Extra Patrol	48	36	268	255
House Check	1	0	15	1
Bus. Check	57	25	220	107
Animal Compl.	7	5	47	54
Traffic Assist	3	5	33	33
Aids: Agency	58	44	428	526
Aids: Public	21	41	253	193
Paper Service	1	0	32	20
Inspections	0	0	0	0
Ordinance Viol.	0	0	1	4



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 4.0 B

Agenda Item:

Tanner Balfany - Recognition of Service on Road Commission

Requested Action:

Recognize Tanner Balfany for his years of Service to the City of East Bethel on the Road Commission.

Background Information:

Mr. Tanner Balfany served the City of East Bethel as a Road Commission member from 2010 until 2011. We have invited Mr. Balfany to attend the meeting and will be presenting him with a plaque in honor of his service to the City.

Fiscal Impact:

None at this time.

Recommendation(s):

City staff recommends City Council recognize Mr. Balfany's service to the City of East Bethel as a Road Commission Member.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 4.0 C

Agenda Item:

Brian Bezanson - Recognition of Service on Road Commission

Requested Action:

Recognize Brian Bezanson for his Service to the City of East Bethel on the Road Commission.

Background Information:

Mr. Brian Bezanson served the City of East Bethel as a Road Commission member in 2011. We have invited Mr. Bezanson to attend the meeting and will be presenting him with a plaque in honor of his service to the City.

Fiscal Impact:

None at this time.

Recommendation(s):

City staff recommends City Council recognize Mr. Bezanson's service to the City of East Bethel as a Road Commission Member.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 4.0 D

Agenda Item:

Resolution 2011-25 US Cable/MidContinent Acquisition

Requested Action:

Consider US Cable’s request for a revised transfer resolution

Background Information:

Midcontinent Communications is purchasing US Cable. A franchise transfer between all existing US Cable franchisees is required for this transaction to become effective. Mark Vierling has reviewed the franchise transfer process and will provide comment and recommendation to Council. US Cable is requesting City Council rescind resolution 2011-25 which was adopted at the August 3, 2011 City Council meeting and adopt resolution 2011-46. The City Attorney has no objections to US Cable presenting this request but feels confident that resolution 2011-25 addresses the City’s issues in this matter.

Attachment(s):

1. Resolution 2011-46, A Resolution Allowing and Approving the Assignment of the Cable Franchise and System Now Operated by US Cable of Coastal-Texas, L.P. to Midcontinent Communications.
2. Resolution 2011-25

Fiscal Impact:

To be determined

Recommendation(s):

Discuss rescinding resolution 2011-25 and the adoption of Resolution 2011-46, A Resolution Allowing and Approving the Assignment of the Cable Franchise and System Now Operated by US Cable of Coastal-Texas, L.P. to Midcontinent Communications per advice of the City Attorney.

City Council Action

Motion by:_____

Second by:_____

Vote Yes: _____

Vote No: _____

No Action Required: _____

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

RESOLUTION NO. 2011-25

**A RESOLUTION ALLOWING AND APPROVING THE ASSIGNMENT OF THE CABLE
FRANCHISE AND SYSTEM NOW OPERATED BY US CABLE OF COASTAL – TEXAS,
L.P. TO MIDCONTINENT COMMUNICATIONS**

WHEREAS, the City of East Bethel has previously granted to US Cable of Coastal – Texas, L.P. a franchise to operate and own a television system within the municipal boundaries of the City of East Bethel, as located within the County of Anoka, State of Minnesota; and,

WHEREAS, on June 6, 2011, US Cable of Coastal – Texas, L.P. entered into an asset purchase agreement with Midcontinent Communications, whereby Midcontinent Communications would agree to purchase and acquire certain assets relating to the cable system, including the franchise from the City of East Bethel; and,

WHEREAS, the City of East Bethel has certain rights under the terms and provisions of Section 11.05 of the Ordinance, granting a cable franchise to US Cable of Coastal – Texas, L.P.; and,

WHEREAS, the City of East Bethel is not required to release the original grantee, US Cable of Coastal – Texas, L.P. of the terms, provisions and responsibilities under the franchise ordinance as a result of the sale or transfer; and has not received sufficient financial assurances, securities or data that would allow it to do so.

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

1. That the City of East Bethel, subject to the terms and provisions herein, consents to the sale and transfer to the extent required by the terms of its Franchise Ordinance, allowing the transfer and sale of the cable franchise from US Cable of Coastal – Texas, L.P. to Midcontinent Communications, subject to the terms and provisions hereof.
2. That the City of East Bethel in allowing the transfer of the franchise under the terms and provisions hereof does not release US Cable of Coastal – Texas, L.P. of its responsibilities under the terms and provisions of the City's Franchise Ordinance, and it shall remain as a guarantor of the performance of Midcontinent Communications under the terms and provisions of the City's Franchise Ordinance.
3. The transfer between US Cable of Coastal – Texas, L.P. and Midcontinent Communications shall not be affective, or finally approved by the City, until Midcontinent Communications becomes a signature to the Franchise

Ordinance, and signs a specific consent to the Franchise Ordinance, acknowledging provisions therein, and its obligations thereunder.

4. By the consent of the transfer and sale of this franchise, between US Cable of Coastal – Texas, L.P. and Midcontinent Communications, the City of East Bethel does not release, relinquish, or waive any of its opportunities or rights under the terms and provisions of its Franchise Ordinance originally granting the franchise to US Cable of Coastal – Texas, L.P.

Adopted by the City Council for the City of East Bethel, this 3rd day of August of, 2011.

CITY OF EAST BETHEL

Richard Lawrence, Mayor

ATTEST:

Jack Davis, City Administrator

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

RESOLUTION NO. 2011-46

**A RESOLUTION ALLOWING AND APPROVING THE ASSIGNMENT OF THE CABLE
FRANCHISE AND SYSTEM NOW OPERATED BY US CABLE OF COASTAL – TEXAS,
L.P. TO MIDCONTINENT COMMUNICATIONS**

WHEREAS, the City of East Bethel has previously granted to US Cable of Coastal – Texas, L.P. a franchise to operate and own a television system within the municipal boundaries of the City of East Bethel, as located within the County of Anoka, State of Minnesota; and,

WHEREAS, on June 6, 2011, US Cable of Coastal – Texas, L.P. entered into an asset purchase agreement with Midcontinent Communications, whereby Midcontinent Communications would agree to purchase and acquire certain assets relating to the cable system, including the franchise from the City of East Bethel; and,

WHEREAS, the City of East Bethel has certain rights under the terms and provisions of Section 11.05 of the Ordinance, granting a cable franchise to US Cable of Coastal – Texas, L.P.; and,

WHEREAS, the City of East Bethel is not required to release the original grantee, US Cable of Coastal – Texas, L.P. of the terms, provisions and responsibilities under the franchise ordinance as a result of the sale or transfer; and has not received sufficient financial assurances, securities or data that would allow it to do so.

WHEREAS, the City of East Bethel enacted Resolution No. 2011-25 on August 3, 2011 which it now elects to rescind and replace with this Resolution.

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

1. That the City of East Bethel, subject to the terms and provisions herein, consents to the sale and transfer to the extent required by the terms of its Franchise Ordinance, allowing the transfer and sale of the cable franchise from US Cable of Coastal – Texas, L.P. to Midcontinent Communications, subject to the terms and provisions hereof. The City of East Bethel in allowing the transfer of the franchise under the terms and provisions hereof does not release US Cable of Coastal – Texas, L.P. of its responsibilities under the terms and provisions of the City's Franchise Ordinance, and it shall remain liable to the City for all of the performances and deliverables including payment of franchise fees due the City under the terms thereof..
2. The transfer between US Cable of Coastal – Texas, L.P. and Midcontinent Communications shall not be affective, or finally approved by the City, until Midcontinent Communications becomes a signature to the Franchise

Ordinance, and signs a specific consent to the Franchise Ordinance, acknowledging provisions therein, and its obligations thereunder.

3. By the consent of the transfer and sale of this franchise, between US Cable of Coastal – Texas, L.P. and Midcontinent Communications, the City of East Bethel does not release, relinquish, or waive any of its opportunities or rights under the terms and provisions of its Franchise Ordinance originally granting the franchise to US Cable of Coastal – Texas, L.P.
4. By this consent the City of East Bethel does not release or waive any of its rights under the terms and provisions of the Franchise Ordinance in the event of default in performance of the provisions thereof by US Cable of Coastal-Texas, L.P. or by Midcontinent Communications, the assignee of US Cable of Coastal-Texas, L.P.
5. Midcontinent Communications, the assignee of US Cable of Coastal-Texas, L.P. shall make payment to the City of East Bethel of franchise fees due the City for 2011 and for all years thereafter during the term of the franchise period.
6. The City of East Bethel hereby rescinds Resolution No. 2011-25 adopted on August 3, 2011 and replaces it with this Resolution.

Adopted this 21st day of September, 2011 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Richard Lawrence, Mayor

ATTEST:

Jack Davis, City Administrator



Payments for Council Approval September 21, 2011

Bills to be Approved for Payment	\$54,342.16
Electronic Payments	\$25,160.93
Payroll Fire Dept - September 15, 2011	\$9,775.18
Payroll City Staff - September 15, 2011	\$35,196.58
Total to be Approved for Payment	\$124,474.85

City of East Bethel

September 21, 2011

Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
2010A GO Water Utility Rev Bnd	Professional Services Fees	24777	Springsted Incorporated	310	31000	766.66
2010B GO Utility Revenue Bond	Professional Services Fees	24777	Springsted Incorporated	311	31100	766.67
2010C GO Bond	Professional Services Fees	24777	Springsted Incorporated	312	31200	766.67
Arena Operations	Bldg/Facility Repair Supplies	48147-IN	R & R Specialities, Inc.	615	49851	310.00
Arena Operations	Bldg/Facility Repair Supplies	48145-IN	R & R Specialities, Inc.	615	49851	896.00
Arena Operations	Bldgs/Facilities Repair/Maint	69843	Menards Cambridge	615	49851	124.65
Arena Operations	Professional Services Fees	37	Gibson's Management Company	615	49851	8,011.88
Arena Operations	Telephone	82811	CenturyLink	615	49851	110.60
Building Inspection	Motor Fuels	1947659	Lubricant Technologies, Inc.	101	42410	314.43
Central Services/Supplies	Cleaning Supplies	577522585001	Office Depot	101	48150	15.05
Central Services/Supplies	Information Systems	215089	City of Roseville	101	48150	2,009.58
Central Services/Supplies	Information Systems	40787	US Cable	101	48150	1,295.81
Central Services/Supplies	Office Supplies	ZKC0036	CDW Government, Inc.	101	48150	41.78
Central Services/Supplies	Office Supplies	50037011	Hewlett-Packard Company	101	48150	203.06
Central Services/Supplies	Office Supplies	576716886001	Office Depot	101	48150	90.61
Central Services/Supplies	Office Supplies	577710990001	Office Depot	101	48150	27.78
Central Services/Supplies	Office Supplies	577711310001	Office Depot	101	48150	7.04
Central Services/Supplies	Telephone	82811	CenturyLink	101	48150	231.60
Fire Department	Bldgs/Facilities Repair/Maint	41913	Metro Fire, Inc.	101	42210	418.50
Fire Department	Employer Paid Expenses	209	Country Inns & Suites	231	42210	187.64
Fire Department	Employer Paid Expenses	210	Country Inns & Suites	231	42210	187.64
Fire Department	Employer Paid Expenses	208	Country Inns & Suites	231	42210	187.64
Fire Department	Employer Paid Expenses	205	Country Inns & Suites	231	42210	187.64
Fire Department	Employer Paid Expenses	91211	MN State Fire Chiefs Assoc.	231	42210	350.00
Fire Department	Equipment Parts	319303	Ham Lake Hardware	101	42210	107.90
Fire Department	Equipment Parts	90911	Mark DuCharme	101	42210	218.38
Fire Department	Lubricants and Additives	1921-359567	O'Reilly Auto Parts	101	42210	90.63
Fire Department	Motor Fuels	1947659	Lubricant Technologies, Inc.	101	42210	500.21
Fire Department	Motor Fuels	1947658	Lubricant Technologies, Inc.	101	42210	595.63
Fire Department	Personnel/Labor Relations	315495	LexisNexis Occ Health Solution	101	42210	150.00
Fire Department	Telephone	82811	CenturyLink	101	42210	557.43
General Govt Buildings/Plant	Bldg/Facility Repair Supplies	82411	Orkin Commercial Services	101	41940	79.30
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	470698458	Cintas Corporation #470	101	41940	20.59
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	14757	GHP Enterprises, Inc.	101	41940	368.72
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	455408-08-11	Premium Waters, Inc.	101	41940	41.21
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	117515	Robert B. Hill Company	101	41940	19.24
General Govt Buildings/Plant	Small Tools and Minor Equip	11064	Access Lock & Key LLC	101	41940	114.13
Legal	Legal Fees	114168	Eckberg, Lammers, Briggs,	101	41610	7,879.93
Legal	Legal Fees	40756	Eckberg, Lammers, Briggs,	101	41610	7,687.80
Mayor/City Council	Professional Services Fees	620971	North Suburban Access Corp	101	41110	120.00
Park Maintenance	Bldg/Facility Repair Supplies	68853	Menards Cambridge	101	43201	239.56
Park Maintenance	Clothing & Personal Equipment	470701774	Cintas Corporation #470	101	43201	47.58
Park Maintenance	Clothing & Personal Equipment	470698459	Cintas Corporation #470	101	43201	47.58
Park Maintenance	Clothing & Personal Equipment	470678320	Cintas Corporation #470	101	43201	74.55
Park Maintenance	Equipment Parts	1539-453855	O'Reilly Auto Parts	101	43201	-69.97
Park Maintenance	Motor Fuels	1947659	Lubricant Technologies, Inc.	101	43201	428.75
Park Maintenance	Motor Fuels	1947658	Lubricant Technologies, Inc.	101	43201	1,145.44
Park Maintenance	Motor Vehicles Parts	J147370	Turfwerks	101	43201	374.44
Park Maintenance	Other Equipment Rentals	48345	Jimmy's Johnnys, Inc.	101	43201	1,042.47
Park Maintenance	Repairs/Maint Machinery/Equip	219804	Winnick Supply	101	43201	88.55
Park Maintenance	Small Tools and Minor Equip	326789	Ham Lake Hardware	101	43201	40.36
Payroll	Union Dues	40787	MN Teamsters No. 320	101		514.65

City of East Bethel

September 21, 2011

Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Planning and Zoning	Escrow Reimbursement	91211	Tim Landborg	919		300.00
Planning and Zoning	Professional Services Fees	438	GIS Rangers	101	41910	820.13
Police	Professional Services Fees	18742	Gopher State One-Call	101	42110	8.70
Police	Professional Services Fees	40756	Gratitude Farms	101	42110	697.03
Recycling Operations	Other Advertising	75704	Catalyst Graphics, Inc.	226	43235	750.00
Recycling Operations	Other Advertising	36532	The Courier	226	43235	225.00
Recycling Operations	Other Equipment Rentals	48345	Jimmy's Johnnys, Inc.	226	43235	56.00
Recycling Operations	Postage/Delivery	75704	Catalyst Graphics, Inc.	226	43235	1,167.93
Recycling Operations	Professional Services Fees	40787	Cedar East Bethel Lions	226	43235	1,000.00
Sewer Operations	Professional Services Fees	79222	Utility Consultants, Inc.	602	49451	615.62
Street Maintenance	Bldgs/Facilities Repair/Maint	470698459	Cintas Corporation #470	101	43220	26.50
Street Maintenance	Bldgs/Facilities Repair/Maint	470701774	Cintas Corporation #470	101	43220	26.50
Street Maintenance	Bldgs/Facilities Repair/Maint	470678320	Cintas Corporation #470	101	43220	26.50
Street Maintenance	Bldgs/Facilities Repair/Maint	455408-08-11	Premium Waters, Inc.	101	43220	41.21
Street Maintenance	Clothing & Personal Equipment	470678320	Cintas Corporation #470	101	43220	73.99
Street Maintenance	Clothing & Personal Equipment	470698459	Cintas Corporation #470	101	43220	47.01
Street Maintenance	Clothing & Personal Equipment	470701774	Cintas Corporation #470	101	43220	14.00
Street Maintenance	Clothing & Personal Equipment	470701774	Cintas Corporation #470	101	43220	47.01
Street Maintenance	Clothing & Personal Equipment	91411	Dobbs, Dan	101	43220	100.00
Street Maintenance	Motor Fuels	1947658	Lubricant Technologies, Inc.	101	43220	2,840.71
Street Maintenance	Motor Fuels	1947659	Lubricant Technologies, Inc.	101	43220	185.79
Street Maintenance	Motor Vehicle Services (Lic'd)	C241126389	I State Truck Inc.	101	43220	-166.56
Street Maintenance	Motor Vehicle Services (Lic'd)	R241033082	I State Truck Inc.	101	43220	3,316.38
Street Maintenance	Shop Supplies	80047	Metro Products, Inc.	101	43220	127.99
Street Maintenance	Sign/Striping Repair Materials	96810-IN	Earl F. Anderson, Inc.	101	43220	296.43
Street Maintenance	Street Maint Materials	17016	Commercial Asphalt Co.	101	43220	105.59
Street Maintenance	Telephone	82811	CenturyLink	101	43220	67.88
Street Maintenance	Tires	124-1058344	Wingfoot Commercial Tire	101	43220	782.63
Water Utility Operations	Telephone	82811	CenturyLink	601	49401	108.20
	Change Fund	90911	Gibson's Management Company	615		600.00
						\$54,342.16



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 6.0 A-F

Agenda Item:

Consent Agenda

Requested Action:

Consider approving Consent Agenda as presented

Background Information:

Item A

Bills/Claims

Item B

Meeting Minutes, September 7, 2011 Regular City Council

Meeting minutes from the September 7, 2011 Regular City Council Meeting are attached for your review and approval.

Item C

Meeting Minutes, August 24, 2011 City Council Work Meeting

Meeting Minutes from the August 24, 2011 City Council Work Meeting are attached for your review and approval.

Item D

Resolution 2011-47 Setting Public Hearing Date – Delinquent Accounts

Collection of unpaid bills through the property tax system is provided for in the East Bethel Code of Ordinances, Chapter 74, Sec. 74-126 (b) for unpaid utility bills, Chapter 30, Sec. 30-15 for unpaid emergency services and Chapter 26, Sec. 26-41 and 26-91 (c) for unpaid property clean up and nuisance abatement charges. The ordinance also provides an opportunity to delinquent customers for a public hearing before the final certification of delinquent amounts owed to their property taxes. Council must establish a certification cutoff date each year that will determine the appropriate certification amounts.

Resolution 2011-47 provides the delinquent accounts and amounts owed assuming a certification cutoff date of September 23, 2011. Notices of the public hearing will be sent on September 26, 2011 with a public hearing date of November 2, 2011. Amounts remaining unpaid by November 16, 2011 will be certified to the auditor in the Recipients County for collection on property taxes. Affected property owners have until October 14, 2011 to request to be heard before Council at the Public Hearing. Certification is frequently the only collection method available to the City to collect these unpaid amounts.

Item E

Accept Fire Fighter Resignation

Nikole Novak has submitted her resignation as Fire Fighter with the City of East Bethel. Ms. Novak has served the City as Fire Fighter and Fire Officer for 1 year. Ms. Novak has enrolled into college and is planning on working full time, hence, has not the time to devote to the Fire Department. Ms. Novak would like to return to the Fire Department once her education is completed and her busy life style calms down.

Item F

Temporary Front Desk Assistance

Receptionist duties have been split between the Building Department and Planning Administrative Support Positions, Accounting Technician and the Deputy City Clerk. City Council has approved the hiring of a full time receptionist. It is anticipated that an employee for this position will be approved by no later than October 19, 2011. However, with the elimination of the Building Department Administrative Support Position, data gathering for the GRE lawsuit, and website projects and IT updates, we will be under staffed until the new position is filled. Therefore, City staff is recommending hiring a temporary receptionist to answer phones, provide customer service and provide some clerical support during this period. The rate of pay would be \$12 an hour with no benefits.

City staff is recommending Elaine Larson for the temporary Receptionist position. Ms. Larson retired from the City of Anoka as a HR Technician, served the City of East Bethel as temporary receptionist in 2008 and is highly qualified for this temporary position. It is anticipated that this temporary position would not extend beyond October 28, 2011.

City staff is requesting approval to hire Elaine Larson to begin work on September 23, 2011. The rate of pay is \$12.00 an hour and funding for this position would be accounted for in the General Fund Budget for 2011 under the Human Resources Department.

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

September 7, 2011

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

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Heidi Moegerle
Steve Voss (left at 9:40 p.m.)

MEMBERS ABSENT: Bill Boyer

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

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

Adopt Agenda **Moegerle made a motion to adopt the September 7, 2011 City Council Agenda with addition of item 10.D Closed Session - Union Wage Reopener Session. DeRoche seconded.** Voss asked do we have any handouts on that. Davis said he has some information to give you, it is briefly the wage reopener and he has some questions on what is Council's direction on where we should go with this. **All in favor, motion carries.**

Administrative Hearings – Resolutions 2011-34 & 35 – Black Bear Liquors Alcohol Sales Violations Licensee and Clerk
Vierling said for purposes of the administrative hearing with regard to Black Bear Liquor and sale to a minor the Council will be conducting a hearing on the issue before considering the issue before them. He explained for purposes of conducting the hearing, we have Officer Mike Wahl from the Anoka County Sheriff's Department that will make the initial presentation and then we will certainly recognize any representative from Black Bear Liquors, clerk Victoria Lynn Raines and anyone else that wishes to speak on the matter. He asked for purposes of order if there was anyone in attendance from Black Bear Liquors. Mr. Vincent Charles identified himself (owner of store). Vierling assured Mr. Charles that he would be recognized. He asked if Ms. Raines was present. It was determined that Ms. Raines was not present. Vierling then recommended that the Mayor open the hearing with comments from Officer Wahl.

Investigator Wahl, ACSO introduced himself and explained that he is currently assigned to investigate a lot of complaints that come up through the City of East Bethel. He said as part of his normal duties, twice a year, we also do alcohol compliance checks. Wahl said the areas that contract with the ACSO are checked to make sure they are in compliance with the standard liquor laws and are not selling to those that are underage. Specifically on the 22nd of June, 2011 we conducted these checks in East Bethel, Bethel, Linwood, Columbus and Ham Lake. He said during that time the checker, a person that is under the legal age and who is a matter of fact, she is approximately 16 years of age. Wahl had her go into Black Bear Liquors at 18453 Highway 65 NE at approximately 7:17 p.m. The clerk that was working the store at that time was identified by Minnesota Picture Drivers License as Victoria Lynn Raines and advised she was employed by Black Bear Liquors. The checker was advised to go in and attempt to purchase a 12 pack of Coors Light. We keep it the same, go into every business and attempt to purchase the same product, unless they are going into a bar. Wahl said then we have them attempt to purchase a single beer and conduct the check that way. He said what ended up happening here is the checker brought

the 12 pack of beer up to the clerk and she made casual conversation with her and she presented the \$20 bill for the sale and at that time she did not ask her for ID and then the checker came back out to my car with the beer in hand and receipt and change that go along with it, where I was sitting outside.

Investigator Wahl said he went in and identified himself as an investigator that was conducting alcohol compliance checks and that she had just sold to a minor. He said at that point we just gathered evidence, gave the clerk back the change, got back the \$20 bill that was used and then notified the clerk that we would be sending the case forward for review to the city attorney's office for formal charges. Wahl said he thinks it is worthy to note that as soon as the compliance check was complete, he advised Ms. Raines that she was going to want to contact the business owner and let them know that a compliance check was completed and they failed. He said he left his business card for the business owner to contact him with any questions. Wahl said and he did, the very next day. He said in that conversation he was very apologetic, very forthright, and he came out and said this was a check where it should have been very easy to detect that she was underage. Wahl said the business owner said he reviewed his tapes to determine this. He said the business owner said it was just a mistake on the clerk's part. Wahl said the employer took swift action and terminated employment of Ms. Raines. He said so what we have here is an employee that made a mistake. In doing some checking on the previous compliance checks on Black Bear Liquors it is also noteworthy to mention that they don't have any previous violations and that is going back a few years. Wahl said at this point it is in the Council hands and he will answer any questions you may have.

Vierling called Mr. Vince Charles up to the podium for his opportunity to speak. Vincent Charles, owner of Black Bear Liquors, introduced himself and said he resides in Cambridge, Minnesota. He said this is for folks that think that we are not treated fairly in these compliance checks Charles said we were and we are, they are not out to get you. He said they did not set us up by any means, she should have been ID'd. Charles said if he had any inkling that (Victoria is a good person, not here to say anything bad about her) but him as a store owner, if he had felt that in any time in his absence that these things weren't happening, she wouldn't have been working for him. He said he has a practice that when someone new comes into the business (it is a small business that he is very involved in) he spends a fair amount of time with them until he is comfortable that they are going to take care of the business, businesslike and in a good fashion. Charles said and that they understand the produce we are selling and that it isn't sold to minors.

Charles said what this has done is made him more aware as an owner of some things that he can do so that this doesn't happen again. Such as he saved the video from this instance and everyone is going to see and understand that video and the ramifications of it. Charles said they will also know what it does to him as an owner. He also said but it sends a message to them that they are going to be responsible too. They are going to get cited. Charles said he stands here humbled because he is a good operator of his businesses and had no intent to sell to anyone underage, it will never happen to his store that he can control. He said Ms. Raines made a poor, poor decision in this case and yet we were set up to succeed in this situation. Charles said we will go forward and use this for a training tool in the future. He is not proud to be here at all. Charles said he takes responsibility for what he sells seriously, and he apologizes for what has happened. He said he didn't like to let Victoria to go, but he didn't see any option in the case, she was a good employee, good worker who had a lack of judgment and if that was going to continue he couldn't have her work for him any longer. Charles said he asks the City Council's to do what you feel is fair for recourse here and he

has already taken it to deep heart, what you feel is fair and just, but this is not something he has taken lightly.

Vierling asked the ordinance talks about a responsible beverage service training course do you use that? Charles said he does not. He said but in Ms. Raines resume and one of the reasons he hired her, it did say that she had that training previously. DeRoche asked is this something you might consider. Moegerle asked about the community service requirement, is that required against the licensee or does that only apply against the clerk or seller. Vierling said it certainly applies to the cashier and seller. Moegerle said we have a proposed resolution that addresses the issue of community service and she just wanted to double check. Vierling said the way he is reading that it is certainly mandatory against the clerk, the way he is reading that it is not mandatory against the licensee. Moegerle said she also doesn't read this as being mandatory against the licensee either, but she wanted to double check. Voss said he thinks it is if the licensee was the clerk. Vierling said yes, if the licensee was the clerk. He said staff has prepared two resolutions for council review. Vierling said the provisions under there deal with the incorporation of the ordinance provisions with regard to the fine and possibility of community work service, with the licensee that would be permissive but not mandatory. He said since we have had no appearance from the clerk obviously there is not anything to discuss but what the ordinance provides. Voss asked is that a separate action for the clerk. Vierling said yes that is a separate resolution as to each. Moegerle asked are you asking if there will be a separate fact presentation. Voss said yes. Vierling said the facts are the same for both and since she has not appeared she has essentially defaulted from that part of it. DeRoche asked the city administrator if to his knowledge this is the first time this has come up at this business. Davis said for Black Bear Liquors this is the first violation.

Moegerle made a motion to adopt Resolution 2011-34 Determining Findings of Fact and Administrative Penalties for the Licensee Pursuant to City Code Article IV, Section 6-93 Relative to Black Bear Liquor, 18453 Highway 65 NE – Licensee - striking the 8 hours of community service, in a large part due to the candor of Mr. Charles so that the penalty would be the mandatory requirement of a \$500 administrative fee. DeRoche seconded. All in favor, motion carries.

Voss made a motion to adopt Resolution 2011-35 Determining Findings of Fact and Administrative Penalties for the Licensee Pursuant to City Code Article IV, Section 6-93 Relative to Black Bear Liquor, 18453 Highway 65 NE – Clerk - \$250 administrative fee and 8 hours of community service. DeRoche seconded. DeRoche asked how do we do this, being as she is no longer there. Vierling said you can certainly assess the fine. He said we will deal with it as part of the other proceedings because she was charged with a criminal violation. Vierling said we will deal with the administrative matter as part of that as well. He said the other question you have is there is a provision in the draft of that resolution that if the clerk's fine is not paid then the license could be suspended, he doesn't know if the Council wants that so he just draws it to you attention. Vierling said you could basically separate that entirely in terms of not making that a condition on the licensee. DeRoche said he thinks this should be separated. Voss asked has this gone through the county courts? Vierling said first appearance has been made.

Voss said this happened a couple years ago, he doesn't recall exactly, he thinks the clerk had been terminated and had a first hearing, same situation. He said we applied the same penalty and the court took that into consideration. Vierling said they certainly will in regard to any criminal sanction that goes forward. Voss said and we had the same question about

community service, how do we enforce that and he thought the court took that into consideration also. Vierling said he does want to note however, and perhaps he wasn't clear, the resolution dealing with Ms. Raines has a provision that if she doesn't pay her fine the licensee could have their license suspended until she does or until they pay it. He said he doesn't know if the Council wants that so he just draws that to your attention. Vierling said if you don't want it you can strike that provision out. Moegerle asked which one is that. Vierling said that would be following paragraph B. Voss said would we not as a City move to collect that fine directly from the person. Vierling said you certainly are here, but you certainly have the ability to require the licensee to cover the clerks administrative fine if they do not, knowing the clerks are fairly mobile, they may default and not appear. Voss said so if we are not able to collect this or unable to pay. Vierling said either or both. Voss said he draws the distinction because when this person goes before the county court and when the administration finds out that they skipped payment on the administrative fine it is not going to go over well. He agrees it is problematic to pass this on to the business because they are not an employee there anymore.

DeRoche said he thinks it would behoove them to pay it before she gets to the county and they find out she skipped out on the fine, they might not look at that too brightly. Voss said he made the same point with the community service, and he would rather have the community service than the fine. DeRoche said he just has a problem with going back after the license for this. Everybody makes mistakes and he took Mr. Charles statements to heart. DeRoche said it is obvious it wasn't an intentional act and he did everything he could to prevent it. If it were the second time, then it would be a whole different ballgame. Moegerle asked and Ms. Raines has appeared for the preliminary or has she appeared through an attorney. Vierling said he cannot recall if she was represented by council, but a first appearance has occurred. Lawrence asked with the motion she pays \$250, is there also community service involved in this. Voss said yes, just like there is written in the resolution, 8 hours community service. Vierling said and the other provision he calls to the Council's attention immediately follows paragraph B. Voss asked isn't that part of code as well. Lawrence said we don't have to enforce that if we don't wish to. Vierling said no, he doesn't believe it is. DeRoche said he thinks it is up to the discretion of the Council. Voss said well it is and it isn't, if the code says it shall be this, it shall be. Vierling said the code does not impose the clerk's fine on the licensee, it doesn't do that. Moegerle asked what about 6.93 subd. c. responsibility of the licensee to assist the city to collect the fee. Voss asked what page is that on. Moegerle said she is looking at the code online.

Voss said if it is not part of the code then he will amend his motion to strike the paragraph after B, This administrative penalty is immediately payable to the City of East Bethel and if not paid within one week of the date hereof or the license for on sale liquor otherwise provided to Black Bear Liquor is suspended until paid in full. The community service must be scheduled with the City Administrator within 20 business days and completed within 60 days of the date hereof or the license provided to Black Bear Liquor is suspended until the community service is completed. but he would also like to add that within that same time frame if this is not taken care of that this be reported to the county. Lawrence asked would you be agreeable to that if she pays her fine in 10 days we would strike her community service. Voss said absolutely not. He said community service is much more valuable than \$250.

Moegerle said the code reads 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. She said so it sounds like that first sentence under paragraph B is in fact required. DeRoche asks so it is that he would have to pay and then he is down the \$250. Moegerle said the only thing she would change is the one week to 10 days because the ordinance says 10 days. DeRoche asked Charles if he has a way to send her a letter. Charles said he can try. Vierling said this is a city action, the only comment he has is he doesn't think the court is going to double up, make the fine and community service concurrent. He said and there is no way the district court is going to happen in 10 days, so if you want to extend this so as long as she performs this under the district court action. Vierling said we will monitor that and get back to you on it. Voss said the community service was supposed to be scheduled in 20 days and completed in 60 days. Vierling said he understands that, but the fine part is in 10 days. He said the question he has for Council is if they either/and/or on the fine and community service is acceptable with this running concurrent with any sentence imposed by the courts. Vierling said such as if the fine she pays in the court is equal or comparable to what the administrative fine would be, they are not going to double it up anyway, that is his point.

Voss said he is not suggesting the county collect for us. Vierling said they won't. Voss said right, just suggesting it be mentioned that the City imposed these administrative penalties and they were ignored. Vierling said he is suggesting it get monitored so we can make sure it gets collected through that system. He said so all we are going to be releasing is the time deadlines relative to the licensee and if we don't collect it through the court system then we will revisit with the Council. Voss asked about Moegerle's statement that it is in the code the licensee has to pay the fee if the clerk doesn't. Vierling said that is not his recollection, but if she has it up he will defer to her. Moegerle said it is kind of curious because it says it has to be paid within 10 days in one part and in the other it says payable in 20 days all in code Section 6.93. Lawrence asked should she make the process through the court and be found not guilty then what would happen. Vierling said then we would revisit the issue with the licensee. He said all he is suggesting you do is suspending the time for her performance. Voss said the purpose of this process is we are having a hearing to determine if there has been a violation of the city code. Vierling said and if you adopt the resolutions you will have done that in the upper portions of the resolutions. He said paragraph A and B the only thing he is suggesting is temporarily staying the imposition of those on the licensee if she doesn't perform until this goes through the court system. Voss said DeRoche's point was whether or not the county finds her guilty but to him that is irrelevant, two separate actions. Vierling said it is just the collateral impact on licensee will be held in abeyance if we can collect it from her through the court system. He said if we cannot, we will revisit it. Voss said he is fine with that, how do you suggest this language be changed then.

Vierling said he would suggest that the paragraph that follows B be modified so that the time performance of the payment of the fine or community service be suspended to coincide with any court sentence that will be going on and if for any reason that doesn't get paid through the district court then that will be revisited with the licensee. **Voss amended his motion to include this language the language as proposed by the city attorney in the resolution. DeRoche accepted the amendment. All in favor, motion carries.**

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

Tyrone Irons from Northern Wisconsin, Spring Brook introduced himself. He said he is here tonight not only as a representative of his non-profit, the Wisconsin Equine Youth Ranch but also as a representative of 1,200+ people who joined a group called Standing

Together for the Horses and most of these people are made up of locals in your area that are trying to stand up against Lowell Friday and against his horse ranch. Irons said he is here to support and help you in any way we can. We wanted to state to this Council that we are here to help in anyway we can, we do have things that you may want from us, evidence rather. He said he knows that you really aren't allowed to talk much. Irons said he is here to show support.

DeRoche asked have you worked with other cities, your group. Irons said no, to be quite honest we have stayed in our state, but in this particular situation we have been called in from locals that were concerned about this place. He said not only locals in the community, but people that were working on the property itself. Irons said they felt like an outside entity would be able to help out the situation, it seemed like this has been going on a long time, so that is why we were called in. DeRoche said he didn't mean exclusively in Minnesota, obviously you have done work in Wisconsin. Irons said absolutely. Lawrence said obviously we are waiting for everything to shake out. He said we thank you for your time.

Ryan DiMuzio of 585 184th Lane NE, East Bethel said he is here tonight trying to ask for a variance. He said we are trying to obtain a dealers license at 18805 Highway 65 NE. DiMuzio said currently there is a dealers license that is good through the state for Ham Lake Motors that has been there for 30 years. He said we talked to the city planner and were told we could not obtain a dealers' license there. DiMuzio said he talked to the city administrator and he told me to come to the public forum and ask to be added to the agenda. Davis said what he recommended was if you wanted to speak was to come before Council and if you have any issues then it would go before the planning commission. DiMuzio said that is correct, we are here the building owner, business owner and myself, the general manager and we are here trying to figure out how to take the appropriate steps before the City to work together, get a variance and just move forward. DeRoche said that sounds good.

Jordan Valder of 180 184th Lane NE, East Bethel said he is the business owner of Valder's Vehicles. He said he is here with Ryan and he would like to get the variance for the dealer's license as it is available for Ham Lake Motors and he would like it in his name. He currently has his business in Spring Lake Park and he would like to move it up here closer to his home. Valder said he would like to have more room, that is his goal. He said he runs a nice clean lot. Valder said used trucks are what he specializes in, and used cars. He said he is here to get your blessing tonight.

Voss asked so that he understands the issue, and he appreciates them coming tonight, but why haven't they been on the planning commission agenda. Davis said they haven't applied to be, they haven't submitted anything. He said he told them if they wanted to speak tonight they could come and speak at the public forum, but that they would have to bring this issue before the planning commission before it could be an agenda item. Voss asked them if they were aware of the process, it doesn't start here, it starts with the planning commission.

DiMuzio said he tried for about a month and a half. He said he started with the city planner; he made an executive summary and showed it to her. DiMuzio said the city planner said the city was not zoned for that, there is 5K Auto and that is all. He said he asked is there anything else we can do. DiMuzio said she said no. He said there must be something else we can do, we have an active dealer's license in East Bethel, and you are getting tax dollars for this. DiMuzio said we can go to Ham Lake, but he loves this city, he grew up in this city, he has kids that are growing up in this city, and he wanted our business in this city but he wanted to do it right. He said he didn't want to fight. DiMuzio said he has asked the city

is there a packet to start a small business in East Bethel, is there a process to follow, so he doesn't waste your time, the Council's time or my time, with all the statutes, the ordinances, so he is prepared, so he doesn't walk in to this blind. He said because he is blind, he doesn't know what you expect or need, he doesn't want to break the city laws, he wants this to be a good relationship. DiMuzio said he came from the Luther Group for 17 years; he was a sales manager there. He said the reason he is doing this with Jordan is he has three young children that go to Cedar Creek and he needs to be home more.

Davis said we had some e-mail communication and Ryan said he was unfamiliar with the process and what I advised him to do was if he wished to speak to City Council he could do it at public forum, but what he needed to do was present his proposal to the planning commission which meets on the 27th. He said if Ryan wants to get with myself or the city planner to get on the agenda do that and we will get you on the agenda. DeRoche said he thinks he talked with him on the phone and it was his understanding he was having a tough time so he told him to bring it to the Council. DiMuzio said yes, that is correct. Voss said and whether planning commission turns this down or not, it comes to us for the final say. DiMuzio asked if he could have the application for planning commission sent to him. Davis said he would get it sent to him.

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

Consent
Agenda

Voss made motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, August 17, 2011, Regular Meeting; C) Meeting Minutes, August 17, 2011, Special Meeting; D) Resolution 2011-36 Proclaiming Domestic Violence Month; E) FEMA Assistance to Fire Fighters Grant (AFG); F) Resolution 2011-37 – Accepting Work & Authorizing Final Payment for 2010 Improvement Project; G) Resolution 2011-38 – Accepting Work & Authorizing Final Payment for Booster East Trail Payment; H) Approve Paving Bid for Whispering Aspen Development; I) Approve Bid for Culvert Replacement on Durant Street; J) Adopt Resolution 2011-39 Approving Application with No Waiting Period for a Raffle Permit for St. Francis Area Chamber of Commerce at Hidden Haven Country Club. Lawrence seconded. Moegerle said she just has some grammar and spelling changes to the minutes, her usual, it doesn't change the content of the minutes. All in favor, motion carries.

Special Order
of Business –
EDA Meeting
Minutes

Davis explained that the Economic Development Authority held a regular meeting on April 6, 2011 and a work meeting on April 28, 2011. The Council Members attended these meetings as EDA members.

A Public Hearing was held on August 17, 2011 and the EDA Commission membership format has been changed and no longer has five (5) Council members serving on the Commission to approve the minutes.

Staff recommends Council considers approving the April 6, 2011 EDA Meeting minutes and the April 28, 2011 EDA Work Meeting minutes.

Moegerle made a motion to approve the April 6, 2011 EDA Meeting minutes with minor spelling and grammar changes. DeRoche seconded; all in favor, motion carries.

Moegerle made a motion to approve the April 28, 2011 EDA Work Meeting minutes with minor spelling and grammar changes. DeRoche seconded. Voss abstained; DeRoche, Lawrence and Moegerle, aye; motion carries.

Pay Estimate #5 for the Construction of Municipal Well No. 3 and No. 4

Jochum said this item is Pay Estimate #5 to Traut Wells, Inc. for the Construction of Municipal Well No. 3 and No. 4. The major pay item for this pay request includes the development of Well No. 3 and Well No. 4. The Pay Estimate includes payment for work completed to date minus a five percent retainage. We recommend partial payment of \$24,711.17. A summary of the recommended payment is as follows:

Total Work Completed to Date	\$ 203,334.25
Less Previous Payments	\$ 168,456.37
Less 5% Retainage	\$ 10,166.71
Total payment	\$ 24,711.17

This estimate includes payment of \$24,711.17 to Traut Wells, Inc. Payment for this project will be financed from the bond proceeds. Funds, as noted above, are available and appropriate for this project.

Staff recommends Council consider approval of Pay Estimate #5 in the amount of \$24,711.17 for the Construction of Municipal Well No. 3 and No. 4.

Moegerle asked is that the well that we hadn't started on, to make it more productive, do we have an update on that. Jochum said they are going to start developing probably next week, we had problems getting enough wells to monitor, we had to have 13 wells to monitor in the area as part of a DNR seven day pump test. He said and a lot of the wells we need to get our adaptors by the pitless so it has been quite a struggle, but today we got the last well. Jochum said so monitoring will start in the next week or two and that's when we will start the drawdown and pumping to see how it turns out.

Moegerle made a motion to approve Pay Estimate #5 in the amount of \$24,711.17 for the Construction of Municipal Well No. 3 and No. 4 to Traut Wells Inc. DeRoche seconded; all in favor, motion carries.

Pay Estimate #4 for the Phase 1, Project 1, Municipal Utility Project

Jochum said the major pay items for this pay request include sewer and water installation on 185th Avenue, Ulysses Street, and along TH 65, and concrete curb and gutter installation on Buchanan Street. 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 \$965,946.91. A summary of the recommended payment breakdown is as follows:

Contractor Payment Summary

	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$1,840,612.78	\$1,349,287.42	\$491,325.36
City	\$1,239,008.34	\$812,684.13	\$426,324.20
Total	\$3,079,621.12	\$2,161,971.55	\$917,649.56

Escrow Payment Summary

	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$96,874.36	\$71,015.13	\$25,859.23
City	\$65,210.97	\$42,772.85	\$22,438.12
Total	\$162,085.33	\$113,787.98	\$48,297.35

This estimate includes payment of \$917,649.56 to S.R. Weidema and \$48,297.35 to the escrow account for a total of \$965,946.91. 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 #4 in the amount of

\$965,946.91 for the Phase 1, Project 1 Utility Improvements.

Lawrence made a motion to approve Pay Estimate #4 in the amount of \$965,946.91 for Phase 1, Project 1 Utility Improvements, \$917,649.56 to S.R. Weidema and \$48,297.35 to the escrow account. Voss seconded; all in favor, motion carries.

Castle Tower
Waste Water
Treatment
Facility
Feasibility
Report

Jochum said as we discussed at a number of meetings, the Castle Towers Waste Water Treatment Plant is at or near the end of its life. Staff was asked to look at several options to replace that plant or other things that could be done. He said the feasibility report that was submitted under separate cover should have been in your packet. Essentially there are two alternatives.

- Alternative 1 – Reconstruction of Existing Plant
- Alternative 2 – Forcemain Construction to MCES System

Summary of Alternative 1- treatment tank and equipment replacement, treatment building reconstruction, polishing pond solids disposal and sludge drying bed reconstruction in year 2012, lift station pumps in and chemical building reconstruction in year 2012-2017 and beyond year 2030 polishing pond reconstruction and sand filter reconstruction. The first two columns were figured in the cost analysis that we will talk about in a little bit, the last column was not. DeRoche asked do you have pictures of what this looks like so the Council could look at it. He said he has been up there and it would be rather enlightening, you can see the numbers, but it would be easier to put in perspective. Voss said it looks a lot better now that it did a few years ago.

Jochum said Alternative 2 would be to connect this system to the Metropolitan Waste System on Viking Blvd, which would require about 30,000 feet of forcemain. He showed where the gravity system would go along Pierce Street, new lift station along 221st, and a forcemain up to 229th, this is where the first RBI basin would be from the MET Council. Jochum said this would extend to Viking, this system would be the ultimate system as outlined in your master document. This would be considered a temporary system until gravity systems moved to the north.

Jochum explained the assumptions used for cost analysis for the bonds: bond rate 4%, bond payment period – 20 years, MCES Access charge - \$3,450 per ERU, MCES User Charge - \$2.25 per 1,000 gallons, City Access charge – assumed the fund would be flush by year 2042. Moegerle asked it would be 30 years to be in the black? Jochum said yes, that is what we are using. He said we can talk a little bit more about that later. He said and the City User charge - \$6.30 to \$8.08 per 1,000 gallons which is basically what they are charging now, and all available ERUs will be allocated by the year 2042. Some other things in the cost analysis such as the existing revenue, Castle Tower Assessment that the city is currently collecting, and two expenses the 2010 Tax Levy and the 2008 Revenue Bond that was taken out to is being paid back currently in the amount of \$2,065,725 which includes principal and interest.

Jochum said then we have the Option Comparison, which includes 4 options for each alternative. Alternative 1 is reconstruction of plant and Alternative 2 is forcemain. First column is Capital Cost. Next column is whether or not we assess the existing users and the existing users are the 42 lots sold in Whispering Aspen and the 100 to 125 lots in Castle Towers. Next Column is the total capacity of that option. So with option 1 you could hook up 383 ERUs/homes. Next column is the ERUs used by existing users, next is the remaining ERUs and then the assumed assessments, ERU which comes from whether or not

we are assessing the current ERUs or users. Then from there the required ERU charge. He said so if you take option 1, current plant in the current capacity, you would need to charge \$12,800 per ERU to make the fund flush by 2042. Option 2 is the same as option 1 only we would assess the current customers and that takes the assessment amount down to \$6,000 per ERU. Option 3 & 4 are essentially the same except we would almost double the plant capacity.

Jochum said option 5-8 is the forcemain option. The only difference between 5, 6, 7 and 8 is 5 and 6 assume the forcemain would be built within the MnDOT ROW and 7 and 8 assume they would not. He said again this is assuming we are assessing and we aren't assessing with the different options. This 8 inch forcemain would have a capacity of about a 1,000 and would serve another 80 homes beyond the Whispering Aspen/Castle Towers area, quite an expansion. Lawrence asked on those ERUs charges, is this something you assess to the existing users or to the new builders. Jochum said we can talk about this at the end, one of the conclusions of this is if Council can select or narrow this down some alternatives. He said this really needs to be a detailed cash analysis. The user's fees up there are quite high, he wouldn't suggest ever lowering the user fees to \$3,700. This scenario is user latent, because look at this, the user fee of \$3,700, Met Council is getting \$3,400 and it is really being funded by user fees that are really high. Jochum said once you get a lot of people on the system, that is when the revenue will really start coming in. He said there are thousands of alternatives that is really why we should narrow it down. He said once this is narrowed down we can get this narrowed down to more sensible user rates.

Moegerle asked is an ERU based upon 274 gallons a day. Jochum said that is correct. Moegerle asked so how many thousands of gallons would a family of four use in a month. She said approximately. Moegerle said she was looking at Andover and they have a flat rate of \$58 a quarter and she is thinking ours is substantially higher than that. She said and she is thinking is that competitive. Moegerle said and it is \$57.64 per quarter for sewer. Jochum said the user fee assumes (to be on the safe side) about 175 gallons per day per house. He said it is a pretty good average. Moegerle asked because people are conserving water more than they used to? Jochum said that and the 274 is an old number, we have high efficiency toilets now, low flushing, etc. He said so we didn't use the 274 number. Jochum said if you took the 175 x 30 that would be pretty close, divided by 1,000 x 6. Jochum said you will be a little higher up here with your own system, in the metro it is probably between \$3 and \$4 per 1,000 you are at about \$6 and think Castle Towers is at \$8.

Lawrence said just so we all understand if we put in the forcemain option, running up and down Highway 65 with it. He said he has had some people ask him, "Is this meant for our business?" Lawrence asked can we hook up individual businesses. Jochum said he doubts you could hook up one business but you could have a central lift station. Lawrence said so a cluster of businesses could hook up. He said just to put peoples minds at ease, this is not really not just because it runs by your property doesn't mean you get the opportunity to hook up. Jochum said but one thing to keep in mind is if you are looking at the forcemain option you have to sell about 1,100 ERUs.

Voss said that is the point where he is getting stuck. He asked with Whispering Aspen and Castle Tower there are 383 ERUs. Jochum said once Whispering Aspen and Castle Towers are to their capacity there are 55 ERUs left, that you could sell or use elsewhere. Jochum said the existing permit is 105,000 gallons. He said this scenario was looked at because it is fairly easy to go up to 200,000 gallons, they usually let you keep your discharge limits if you stay under 200,000 so that is why this was looked at. Voss said so where does the 729

ERUs come from. Jochum said this is coming up later, you would have to sell those units elsewhere. Voss asked along this line? Davis said in the case of option 3 or 4 they wouldn't have to be sold along the line, they could be sold north of 241st. Jochum said some options are confined to the north end of the city and other options, with forcemain that could be tapped into anywhere. Voss said from what he recalls, and we don't have the comp plan maps in front of us, but most of that area is not residential. Jochum said if he remembers it is residential on the east side and some industrial.

Voss said so the question comes in then, what about water service. He said we are not going to get commercial users unless there is water service. Jochum said right, this is just looking at the sewer. Davis said from a water standpoint, we have the two wells up there that have excess capacity for all the area. Voss said but now we need towers and water treatment would need to be changed, we don't have enough water treatment capacity up there for that many users. Lawrence said we need to reevaluate our water treatment is what Voss is thinking. Voss said sort of where he is going is the plans we have now is they are conceptual and we go up 65, but it was a plan. He said where he is throwing some caution out is he understands the need for this, but in the same token in the long term planning how this fits in any long term plans. Voss said if he recalls there is far more than 1,000 ERUs on the north side of the City so if we are opening up development up there, is this forcemain going to handle everything up there. He said part of the way the comp plan is set up also is development occurs at some organized pace and obviously by putting sewer and water up there, obviously we have to go through Met Council because it is a comp plan change, but we can't discount that we have the plan for long term that area being part of the whole system. Voss said it is a long way saying we can't have a small pipe if we are going to serve the whole City. He said and now you are getting away from a forcemain, so where is the tradeoff. Voss said and if we do the forcemain 20 years down the road, and we have to replace it and put a bigger pipe in now how do we pay for all that because the original setup was for everyone to pay for that bigger pipe.

Jochum said so you are saying we need to plan the water and the sewer side. Voss said that is why he suggested a while back looking at least the portions of the sewer system that make sense. He said because you don't want to dig anything up twice, you only want to dig once. Jochum said this system is constructed up to size up to 229th. He said that is what they had in the master plan an 8" forcemain. Voss said so the 229th this will service everything that was planned. Jochum said the in master plan this forcemain is an 8" with this lift station here, only difference in forcemain is they had it running down some streets because they had some gravity in there. He said we are running it along TH 65. Voss asked your evaluation of 1,000 ERUs that was only on the very north end of that. He said because that pipe had to get bigger going south. Jochum said there is not a forcemain all the way, there is only here and there where there isn't gravity. He said the report shows where the forcemain ends. Lawrence said just before 229th. Jochum said on Figure 3 in feasibility report we looked at the options on the master plan. He said we are just looked at 226th to 241st and to run it this far would be about another 1.3 million. Jochum said given the cash flow of this option, we didn't consider this option, but we could have if this makes sense. He said to construct it all the way to Viking would have been quite large. Jochum said that is how the master plan is, there is not forcemain the whole way, probably goes to the creek, but it is gravity again to the lift station. Lawrence asked is it still 8" pipe on the gravity. Jochum said no, it is probably a larger pipe on the gravity. He said the lift station on 226th would be the low point in the master plan and there would be gravity coming back to it.

Voss said he is still confused, on figure 3 there is a portion of gravity, but you are showing

force main south of 226 all the way down to Viking. Jochum said this compared the cost, vs. the other option. He said it cost another 1.3 million. Jochum said at some point we had to break it off, we can't build it all the way to Viking. Voss said so this is where the trench will already be open. Davis said on the master plan eventually there will be gravity sewer all the way from 221st to Viking.

Lawrence asked if we went with the force main system, what is involved in no longer using the system at Whispering Aspen/Castle Towers. He asked what are there ramifications with that, the financial impact of that. Jochum said essentially that plant would be demolished, we would hook up to the force main, and that plant would no longer be needed. Lawrence asked but what about the \$2 million bond. Jochum said that would still be in play. Davis said if this plant were decommissioned there is also a potential savings of the operating costs of keeping that plant open. He said there would also be some property value with lots along 243rd Street that the city owns that the city could sell, plus whatever residual value of the property once that plant was cleaned up and that whole area was reclaimed from its current use. Moegerle asked how many acres is that again? Davis said there is 10 acres up there in that site.

Jochum said so these are the advantages and disadvantages of Alternative 1. All the options advantages are the same except for option 3 and 4 have more expansion potential. Some disadvantages are this one has the highest ERU requirement. The biggest problem with this plant is it is \$2 million in the hole today. Jochum said the connection to the MCES system, you wouldn't get credits under these options for those connections (if you look in the report it summarizes what you are required by MCES to hook up per year he is thinking you have committed to about 12,000 connections over the next 30 years), and a licensed operator is required (you are in the sewer business with this alternative).

Jochum said and the advantages and disadvantages of Alternative 2. All the options are the same pretty much. He said 5 and 6 are being constructed in MnDOT's right-of-way (ROW), 7 and 8 outside so thus the higher costs. The biggest disadvantage of this alternative is you don't have control of the easement such that let's say MnDOT constructed an interchange to Viking Blvd. someday, you would have to move at your cost. That is the disadvantage of not controlling your ROW. He said if you control your ROW, if you buy it before they have to buy it, they have to pay to relocate your facilities.

Jochum said so then we are at the conclusions. The connection charges will be very high without expansion of that system up there. He said unless you raise the user rates even higher which is probably not very feasible. Essentially if you construct the plant with 383 connections, you can only get so much money out of 383 connections. Alternative 2 requires a minor comp plan amendment. If the existing users are assessed there should be an appraisal done to justify the assessment. For Alternative 1 – confirm discharge limits with the MPCA. He said basically you have some pretty liberal discharge limits now, they have indicated in the past that those wouldn't change but that should be confirmed. For Alternative 2 – Determine if the City will do a joint project with MCES or a stand alone project. Again their project starts at 229th and goes south. If thinking about option 5 or 6, should do a preliminary survey of the existing MnDOT utilities to make sure there is adequate room for that to fit in there. Jochum said and again, a detailed financial analysis needs to be completed for the selected alternative. This is to balance the user rates with the access charges before you make too many decisions.

Jochum said as far as a recommendation, it isn't based on advantages or disadvantages, it is

more on perspective. If you do a forcemain, you are really going to need to expand the system beyond what is there. He said the biggest decision really is if you are going to assess the existing residents because that has a huge financial impact on this analysis.

Moegerle asked how much of this is being driven by being in the Phase 4 of the comp plan and the sewer and water system. She asked is the fact that it is in the sewer and water system area driving/working this, besides that the system is failing or needs substantial repair. Jochum said as far as staff is concerned this doesn't have any bearing, we are just trying to have a plan in place. Moegerle said and her second option, not that she is going this way, but she likes to have options, why don't we just turn the switch and tell everyone to get their own wells and septic. She asked are the lots not big enough to make that an option. Jochum said no, Whispering Aspen is only 10,000 square feet. Moegerle said so they need an option. Jochum said plus there is an agreement with the developer to provide those services and he doesn't know how the courts would look on Castle Towers, the city attorney would have to answer that. Moegerle said so we are not in trouble with the MPCA on this. Jochum said no. Moegerle asked if we don't do something. Jochum said he doesn't think we are in trouble, but the limits of discharge are pretty good up, he is not involved in the day to day operations.

Davis said we don't have problems with discharge limits, however are starting to push the envelope with several of the facilities up there. He said two in particular that need fairly immediate attention are the reconstruction of the brine beds and cleaning of the polishing pond. Davis said we also have the issue with the existing treatment tank and the building itself. He said the tank is 40 years old and we did have some integrity test done on the tanks about four years ago that showed there was erosion of part of the material. Davis said the problem is there is four feet of that tank that is underground that can't be tested so we are not exactly sure what that condition is. He said also the building is just a shed with some tin on it, it is not heated or insulated which reduces the efficiency of running the plant. Davis said we have had a couple of freeze ups, we had one bad freeze up last winter. He said there are many things up there that are going to require attention. Davis said perhaps some things could be done in phases if we wanted to try to keep that plant in operation, but regardless of what we do we are looking at expenses to make those changes to keep it operational.

Jochum said along the lines of drivers, a) the money that wasn't spent on the water treatment plant, trying to decide if you are going to use that or not, and b) the Met Council is constructing that forcemain now, not that you are going to go that route, but the decision has to be made soon. Moegerle said in her view, that system has been a money pit for years and years and years, and she hates to add to that. She said she is sitting here and wants it to go away and she realizes that is not an option. Moegerle said so she wants to look at another options, question is what is 1,080 ERUs. She asked are we looking at going into former Phase 3 area? Jochum said he doesn't know the exact Phase area, but it is likely north of 229th for sure. Voss said it was pretty much everything on the east side, new development. Moegerle asked so that could be a 1080 ERUs from here on up? Jochum said it is probably more than that. He said for prospective, Whispering Aspen and Castle Towers, those dark two squares are 383. Lawrence asked 383 is that how many are available to be used by Whispering Aspen and Castle Towers? Jochum said excuse me, it is 383 minus 55, so 328. Moegerle said and of course they don't always come from south to north, so starting in the north is not bad for that reason, but we can't know where that development will tie in here. Jochum said you can tie into the forcemain any way you want, but as Voss stated you might not be able to provide them water. Jochum said he doesn't know what kind of belt may come. Voss said you won't get any commercial without water.

Lawrence asked so with current ERUs you are using, if we totally built out Whispering Aspen and Castle Towers we would have 50 ERUs as buffer. Jochum said yes, 55. He said that would be replacing the plant at its current capacity. Moegerle asked and the 12,000 ERUs by 203 is Met Council's estimate. Jochum said no, table 12 of your report is an agreement you have with Met Council. Moegerle said that is 400 a year if we do it straight line. Davis said it was Council's projection to have it pyramid up, but straight line that is correct. Lawrence said he is thinking we need to have more of an in-depth discussion on this. Jochum said he doesn't know that staff was expecting a decision tonight, just trying to get the information out there and make sure there wasn't anything else.

DeRoche asked but how long can we keep piece mealing this together, we are spending money, a lot of money to fix it. Davis said what he would anticipate is, like Jochum said, not a decision on the alternatives tonight this is more of an informational item, where we can get a grasp of the concept and get our arms around this. He said he would think that we do need to make some type of decision in the next couple of months on which direction we are going to go for two reasons, 1) the aging of the facility and the fact that there are certain parts of it that we need to address and 2) what are we going to do with the excess bond money, since this would be at least the forcemain cost of it would be an eligible cost for that. Moegerle asked the reconstruction would not be, or is that unknown. Davis said anything that is a capitalized project would be eligible for the bond money. He said the bond money is not exactly tied to the Met Council project themselves, but anything that is a capitalized project that deals with water and sewer is an eligible cost item, according to what Dorsey and Whitney the bond counsel gave us. Moegerle asked to have her memory refreshed, do they have individual wells up there. Davis said we have two wells that serve the Whispering Aspen Development, and Castle Towers has their own well.

Jochum said one other item to note, it was an unknown at the last meeting about the exiting SACs, but Met Council will not charge the existing customers SACs for hooking up. He said whatever is in place right now, but whatever comes in the future would be. Jochum said but you are not going to get credit for what those would be, he found a provision in their SAC manual that said that said if you have people hooked up to existing sewer or a municipal sewer we won't charge you SAC. He said so he discussed those with them and they confirmed that they would not charge basically the 167 that are there today. Jochum said he doesn't know if you remember, but in the first go around this was about \$3 million because of the SAC in there, so the costs were brought down.

Moegerle asked have you had any contact with MnDOT about these easements, and whether we would want to buy an easement rather than a having to change it at a later date and having to bear those costs and where are you at. Jochum said just preliminary discussions. He said they will allow it, you will have to have an agreement with them outlining what we want to approve and you will do it at their cost. Voss said and that will be a \$500,000 cost. Jochum said we estimated that at \$500, 000. Voss said he would suggest that we buy our own easements at Viking, Sims, 221st, outside of MnDOT where you know there is a potential for it, they have a humongous ROW on the freeway, they are not going to widen it anymore, but the interchange, we will need it. He thinks we need to look at that. Jochum said there are a few areas where we have easement in plats. He said that forcemain, that is Wargo Ponds and West Side Estates, we have easement there, it would be in an easement.

Voss said one last thing, at one time we were talking about the City of Bethel and their system, did that go anywhere. Jochum said they are of course interested, they have about

200 ERUs, don't know that they are in the position today to hook up. Moegerle asked and those wouldn't count either. Jochum said not unless you paid the \$3,450. Lawrence asked they are all on private wells too aren't they? Jochum said correct, their whole city is on private wells. He said but they are looking at some substantial upgrades to their system, their users fees are fairly high, they are in the same boat. Jochum said sure they have 8-10 years left on some bonds, but again, we haven't approached them too much until East Bethel decides what they want to do .

Lawrence said he thinks we should check on the easements and check with Bethel and see where they are at. Moegerle said and the forcemain makes sense, as much as she feels let's not throw more money at this thing. She said this seems to be the most logical approach to keep the cost down. Lawrence asked with the forcemain will that lower the cost to the people in Whispering Aspen for their sewer. Jochum said that is why you should at least narrow some alternatives and do a more detailed cost analysis so you can look closer at user fees, with the ERU or access charge. He said again he wouldn't set the access charge at \$3,700 and then charge \$6 a gallon, he would try to balance that a little more. Moegerle said compared to replacing a septic system that you have to replace every 20 or so years, that alternative looks attractive. Jochum said another decision, assessing the 167 units that are there has huge implications on the cash flow of this thing and maybe you aren't ready to make decisions tonight. He asked do you have any feelings one way or another on that issue. Jochum said this analysis assumed that the new ones got assessed \$6,000 and existing ones got assessed \$6,000 would rather see less on existing or some kind of combination. There are thousands of alternatives and until Council narrows it down a little bit it is hard to know what you are thinking.

Davis said one other thing that is going to drive this is Met Council will want to know in a relatively short period of time, guessing within 60-90 days if we are going to try to locate any of this forcemain in their trench because they are going to start relatively soon and we are going to have to give them an answer if we want to participate with them jointly with that part of that project. Voss asked Vierling if we apply to the existing users these charges isn't it kind of a special assessment in a way, and do we need to show value. Vierling said you need to show benefit. He said if you are going to do a 429 special assessment you have to show benefit. Vierling said you have the opportunity when you are doing a new improvement when you are either rebuilding infrastructure or redoing a new system, that is a new improvement. He said you have the opportunity to do a 429 assessment. Vierling said you have to show benefit. Voss said personal view on it then is how are we showing benefit when they already have a sewer service. Vierling said what they have is a system that is failing however. Voss said no we have a system that is failing. Vierling said they are connected to an infrastructure system that is failing. He said it is the same as the issue you have if you have a street that is failing. Vierling said and the Council makes the decision to reconstruct the street, tear it all out and redo it, as opposed to patch it, the useful life of the infrastructure has come to its end. He said when you have to replace infrastructure because that has happened, you have the opportunity to assess and there is benefit. Vierling said with that benefit they have the opportunity to continue using it, they have new infrastructure that is serving their property and provides them longevity for whatever utility is being discussed.

Jochum said as discussed in his conclusions, you would likely want to get an appraisal to see what is justified. Moegerle asked when you work these numbers up she wants to know if it is possible that this is not going to be paid for by the general public. She said this is something she wants to know, because, not that it is going to change her decision, but she

thinks we need to know that. Moegerle said if this isn't going to be in the black until 2040, who is paying for that during that time, because that is not going to be self supporting during that time. Jochum said if you really dive into the cost summaries it tells you what the biggest cash deficit is. He said option 1 is \$2 million in year 2021 and it goes on. Jochum said the forcemain options might have the largest deficits. He said but again this also assumes that this money would all be bonded. Davis said this money has essentially already been bonded and we have to pay it back regardless. Moegerle asked how long is the life span on these. Jochum said 30-40 years. Lawrence said so we need more information about easements and cost for residents. Davis said that would be one of the things, and Voss's assessment is correct, we should look at the other intersections. His recommendation would be to narrow this down to about four options and get some more detail cash flow information on it. Davis said and then we can re-present this and begin whittling it down until we can come up with two options and see which one is the most viable.

Jochum asked are there any options you don't like or wouldn't want to consider further. He said it sounds like get the easements and the critical areas. Sounds like get easements and critical areas. Lawrence said option 3 and 4 if that is what we are going to do, it sounds like a waste of money if that is what we are going to do because just fixing a tank that can only handle those there. Jochum said that is a brand new system, we would add another tank 15 or 20 years down the road. He said the building would be sized so you could add another treatment pond. Lawrence said so just enlarging building, not ERUs. Jochum said basically setting it up to expand in 15 or 20 years. DeRoche said but in 15 or 20 years, the sewer system is going to come up. He said so we replace this plant and then we have the sewer system come up to serve the people on the east side, we kind of wasted a lot of money. Jochum said again it goes back to what is your optimism of the sewer getting up to the north end. Voss said with this analysis here, set aside what is projected in the comp plan, this is another whole set of options of growth in north side of city which is 7 to 8 miles away from where we are focusing right now. He said one way we need to look at this is the relative risk between really constructing existing plant and forcemain and also, it really comes down to expansion.

Voss said his view is we have a duty to provide that reliable service that we have now. He said to him that is the base we need to work off of. Voss it becomes a risk/reward in terms of what risk do we have, in terms of projecting what additional development can happen for reward of reducing overall cost of the system. He said because if that fails, like Moegerle mentioned, it will fall back on everyone. Voss said but for the system that is there right now, and to rebuild it, that is the commitment we have right now, is to provide those services. He said he thinks getting an appreciation for how much additional development would have to happen for these other options, for cash flow, for them to work, to him that is the evaluation. DeRoche said he thinks we need more information.

Moegerle asked part is her not complete understanding of Met Council's projection, because for wastewater treatment. She said her understanding is that somewhere in the munich, they have to have supportive structures and those sort of things. She said and if that is the case, could that be up there instead of this and we can start Met Council working both sides towards the middle. Davis said this was plant expansion of the WWTF. Moegerle said so it is just down there. Jochum said as of right now they have trunks going towards Oak Grove and Ham Lake. DeRoche asked did they pass that to have a trunk going to Oak Grove. Jochum said this is along Viking, it will terminate, but it is sized for a portion of Oak Grove. Davis said what Moegerle is referring to is the WWTF expands which is in their plans. He said so the treatment plant is planned for a ½ million gallons a day initially and then

ultimately can be built out to 10 million gallons a day. Moegerle said and she was referencing, no pun intended, but are they going to have satellites there. Jochum said no, no satellites. Lawrence asked with this planning we could have development anywhere north and south of the city, correct. Jochum said that is true, but we wouldn't have water there. Lawrence asked what about water. Jochum said it would be a matter of getting it there, it could be a major expense. Lawrence said the major development could be at Sims Road. Jochum said you might be better to get the infrastructure there.

Moegerle said this might be better for a work session. She said she would like to see this contrasting with the comp plan. Jochum said as in if there are 1,000 ERUs does it have to be light industrial, what area that would serve. Moegerle said yes. She said what if we do get light industrial, what if we do get a data center. Moegerle said she thinks we should look at an optimistic view, very pessimist view and something in between. She said and she is not sure which of those are up there. Jochum said so you are saying we look at forcemain and we only get 400 connections, what does that look like. DeRoche said we need an actual worst case scenario, not a feel good approach. He said if things don't happen, what are the numbers going to be. Jochum said if you remember last time he had at least 30 options, it is very difficult if we don't narrow it some. Moegerle said she like options 5 and 6 if we could do it at a hybrid with regard to the easements. She said which does that convert that into options 9 and 10. Jochum said one note on options 1, 2, 3 and 4; you wouldn't have to move to 3 or 4 until you know you are going to have the growth.

Council Member Voss excused himself from the meeting.

Resolution
2011-40 Water
Treatment
Plant
Construction
Project

Jochum said he has prepared plans and specifications for the Water Treatment Plant (WTP) Construction Project. The project will consist of constructing a water treatment plant that removes iron and manganese with pressure filters. The process will also include the addition of sulfur dioxide, ferric chloride, fluoride and chlorine.

The WTP will be owned and operated by the City of East Bethel. The current floor plan shows two pressure filters in the Water Treatment Plant. The second filter will be bid as an alternate.

The construction plans have been submitted to the Minnesota Department of Health (MDH) for final approval. It is anticipated that the MDH will review the plans within the next 4-6 weeks.

Staff is recommending approval of Resolution 2011-40 Approving Plans and Specifications for the Water Treatment Plant Construction Project and Direction to Solicit Bids. Approval of Resolution 2011-40 would be contingent on receipt of final approval from the MDH.

Lawrence said the wells have been drilled and we are ready to start pumping for a drawdown test. He said his question since we done some modification on the wells to get some more water into the well system is there a chance we will be pulling some iron into the system at this time and if there is do we have the ability to clean that iron out. Jochum said yes, that is the main purpose of the pressure filters, for iron and manganese. Lawrence said because right now we have no iron whatsoever. Jochum said very low. He said the second well is very high in manganese and it is kind of ironic we actually have to add iron to the water to remove the manganese. Jochum said it sticks to the filter media. He said but that is the reason for the chloride. Jochum said this is only for the gravel well though, the other well is very good quality in both iron and manganese.

DeRoche made a motion to adopt Resolution 2011-40 Approving Plans and Specifications for the Water Treatment Plant Construction Project and Direction to Solicit Bids. This is contingent on receipt and final approval from the Minnesota Department of Health. Moegerle seconded; all in favor, motion carries.

Sylvan Street
Licensing
Agreement

Davis explained that Sylvan Street is the street that is being petitioned for a license agreement to locate and maintain well and septic system improvements within a public lands controlled by the City of East Bethel by Andy Nelson. The City Attorney has advised staff that platted City streets can not be sold but a license agreement could be executed with Mr. Nelson to address his problem. It is unlikely that the City would ever use this right of way but in the event its use was required the City could rescind the agreement at any time it deems necessary to serve a public purpose.

This platted but undeveloped street is rarely if ever used for lake access by the general public, possesses little benefit for a drainage easement and is not necessary for fire equipment access to the lake. Therefore, Staff recommends the license agreement as prepared by the City Attorney and between Mr. Nelson and the City be approved.

Moegerle made a motion to approve the non-exclusive license agreement between Mr. and Mrs. Andy Nelson. Lawrence seconded. Vierling said for discussion purposes he did have some contact from Mr. Nelson's counsel and provided them a copy of the license agreement. He said he also got some additional information about a future improvement that would include an above surface improvement atop of this area which would not be appropriate at all with the agreement. Vierling said he is not sure the license agreement is going to do what he wants, or that he wants to proceed ahead with the petition and that issue. He said he is fine with the license agreement, he doesn't know that it will suit his purposes if he plans on doing anything more than a well and septic system. Davis said what we were also proposing here is as a second item is the vacation of that street; this would permit him to proceed with this project during this construction year. He said as we discussed last time the petition may take a while and not meet his timetable for the well and septic improvement. Davis said then if approved maybe he could construct his other permanent improvements, if it was vacated. Vierling said that is fine, as long as everyone understand the license agreement is at risk. He said and if a person precedes ahead the improvements they put in there are at their own risk. Vierling said and if for any reason the City would not go ahead with the street vacation or the DNR would object to it, then obviously they would have to live under the terms of the license agreement.

DeRoche asked weren't we going to get some information from the DNR. Davis said only if we approve this as a vacation request, then we will submit it to the DNR for their comment and approval and review. DeRoche asked what if we submit it and they say no. Vierling said if they indicate they would prefer to acquire the property within the agency as an access, which is a possibility, then we would have to go back to the property owner and see what he would want to do. He said but he assumes at that point and time he would withdraw the request for the street vacation because of the improvement in the ROW would be potentially acquired by the DNR and it would be of no value to them. Moegerle said basically the resident proceeds at his own risk. Vierling said absolutely. Moegerle said a and for us there is no risk. Vierling said no. He said he understands to use this as a precursor for the street vacation, he understands the logic, but that doesn't necessarily mean the street vacation will succeed or go forward. Vierling said or Council may decide from a policy standpoint, because this street is in approximation where other streets have been

raised, there may be some issues there too. Lawrence said there is no reliability to the City with this particular item. Vierling said the property owner will be proceeding at his own risk. Lawrence said and if there are any issues that arise it would be on the property owner to handle his own way. Vierling said certainly at his financial risk, yes. **All in favor, motion carries.**

Sylvan Street
Vacation
Request

Davis explained that the Sylvan Street is the street that is being petitioned for vacation. The City Attorney has advised staff that platted City streets can not be sold but must transferred to the adjoining property owners if a vacation is approved.

The two residents that adjoin Sylvan Street, Andrew Nelson and Richard Roback, have submitted a petition to have this street vacated. These residents need additional property to remediate septic system and well issues. The residents have been advised that since these are platted City streets they must follow the requirements of State Statute 412.851.

As part of this approval this must be submitted to the DNR for review.

Staff recommends the process of vacation of Sylvan Street as prescribed by Statute 412.851 commence and upon completion of the requirements be presented to City Council for consideration.

Moegerle made a motion to proceed with process of vacation of Sylvan Street and upon completion of the requirements this will be presented back to Council for consideration. Lawrence seconded. DeRoche asked aren't we opening a can of worms. Lawrence said we are just allowing them to go ahead do what they want to do. DeRoche asked about the other properties that are in the same situation. Davis said you make a valid point, there are other platted but undeveloped streets that may come under consideration. He said however, this street has almost no value at all to the City because of the ways it lays topographically, has not been used for lake access at all to the other residents in the area, fire department has other access to water and doesn't use this for access. Davis said some of the other platted but undeveloped streets do have other uses, some have drainage easements on them, some are used as access to the lake, so these would have to be evaluated on a case-by-case basis. DeRoche said that was his point, if we can do it on a case-by-case basis, because if we do it once, then anyone that is made aware of that is going to want to do the same thing and we don't want to give up the opportunity to say this was a unique situation, this situation is completely different and we just can't do it this way. Moegerle said but this just starts the process, we still have the right to stop it. **All in favor, motion carries.**

BDM
Compensa-
tion Claim

Brian Mundle and the City of East Bethel entered into a purchase agreement on January 8, 2004 in which the City sold 75 acres of the property now know as Whispering Aspen to Mr. Mundle. As part of that agreement a fee was established for SAC (\$6,000) and WAC (\$500) charges for connection charges for each lot that is developed. The agreement further states that the contract may be amended only by a written instrument executed by both the City and Mr. Mundle.

The City raised the SAC fees for the Whispering Aspen Development in 2006 to cover the costs associated with the acquisition of the Castle Towers Sewer Treatment Plant. The SAC fees were raised from \$6,000 as specified in the Purchase Agreement to \$10,250 per Resolution 2006-48 as adopted on September 6, 2006 by City Council.

Mr. Mundle contends that this change in fees is not valid as he did not consent to the

increase. Mr. Mundle also contends that he paid seven SAC fees based on the 2006 rate adopted by Council, under protest, and this resulted in an overcharge of \$29,435 in connection fees. Staff has verified that Mr. Mundle paid the \$10,250 SAC charges per lot for the seven properties in dispute.

The City Attorney has reviewed this issue and in his opinion the SAC fees (\$6,000) as set forth in the 2004 Amended and Restated Purchase Agreement “have application until and unless the wastewater treatment plant at the Castle Towers facility is decommissioned.”

Mr. Mundle is also seeking interest charges on the overpayment claim of \$10,689.90 or a total of \$40,124.90 as repayment from the City. Staff is requesting Mr. Mundle provide additional verification of the interest claim. This information will be forwarded to Council members prior to the September 7, 2011 meeting.

Staff is seeking direction from Council on this matter.

Lawrence asked is it the city's right to raise the fee if they see a reason to raise the fee on the SAC and WAC charges. Vierling said normally the city can raise the fees on utilities periodically as you choose, but in this particular instance the question comes down to the agreement that was signed between the city and Mr. Mundle which related to a provision that indicated that the fee would be capped or kept at \$6,000. He said that did not apply to monthly utility rates, nor would it apply to assessments, nor would it apply to infrastructure changes and improvements. Vierling said but, as far as connection fee was concerned that was specified in the particular agreement. Lawrence said we need to table this until we get the information from Mr. Mundle that the funds weren't passed on to his consumers. Davis said Mr. Mundle is here, he can answer any questions you may have. DeRoche asked it is 2011 and this didn't come to light before that, if it was done in 2006 and now we are in 2011, why didn't you come forward sooner.

Mundle said in 2006 the city passed an ordinance which put them in default of my contract. He said he did address the former city administrator and letter he received from him said he had to put a proposal in front of the City which was completely off the charts. Mundle said why would you default on my contract and then have me come and provide proof. DeRoche said he is not making an accusation one way or the other; we weren't involved in that, so we are looking for information. He said what the previous city administrator did, have no clue. DeRoche said he has not letters in the packet, he has nothing, so he hasn't decided, heck he can't just make a decision without information. Lawrence asked was this charge passed on to your customers then. Mundle said in 2007 we built a bunch of homes up there and he had to devalue the homes in order to sell them. He said he took a kicking on every single home up there because he had to pay this extra fee. Moegerle asked wasn't the real estate bubble about that same time. Mundle said that started in 2006 and in 2007 he was still building up there, but that was the end of it when the City instituted that extra money against me, we were done, it was all over. He said he did address the issue with city administrator, he went in and talked to him about it, he talked to the mayor, four times and they didn't do anything about it. Mundle said he asked the city council four times to address it. He said the response the last time was a letter he received, because he was being very patient with him, this letter states that the City Council would insist the matter be revenue neutral, any reduction in fees would have to be generated by him.

Mundle said under his agreement with the City, the City was supposed to acquire the treatment plant. He said and his fees were based upon his contract and they should never

have been altered. Mundle said his contract specifically says they cannot alter it. He said he paid 1.7 million for that place and then the City came back and said we are short, why don't you give us another million dollars. Davis, DeRoche and Lawrence sit down and work this out and get all the information we are looking for and then we can bring it before Council and get a good feel for it. Mundle said in October 2008 his attorney sent a letter to the City and the last line states if the City has a legal rationale for ignoring the purchase agreement, we would like to hear it. He said we got no response from the City. Vierling said he would note because it is in the packet, that the resolution in issue, resolution 2006-48 that increased the fees references expenses that the City incurred for the betterment and replacement of the WWTF. He said in advance of your meeting with Mundle it might be appropriate of staff to look back and see what expenses were incurred for betterment and replacement of that facility if any. Davis said we can look at that, to his knowledge there were no improvements to the facility at that time.

Moegerle asked and can we get documentation of whether the costs were passed on or not passed on. Lawrence said he would like to see the current rate of what they were going for and the devaluation that he had to take because of this. Moegerle said and the interest rates. Mundle said so you are asking me did I pass it on to the customer. He said the city should have never had charged me for this. Moegerle said she agrees, but she also thinks you have a duty to mitigate your damage. She said and if you passed it on to your customer and the customer has paid you that \$10,000 then is it double dipping to come ask for it from us. Moegerle said she is not making that allegation at all, but that is something that we have to parse carefully to see what your damage is. She said she appreciates the contract, she appreciates this resolution, there is a disconnect, but it needs to be fair, because this money is coming out of taxpayers money if we should pay. Mundle said it came out of my pocket. Mundle said you guys are default and you are standing there and saying I have to justify something, he paid it to the city and they were not supposed to have this money, his contract has been violated. Lawrence said if he overcharged you a dollar amount and you passed it on so you didn't have to pay it, that is the person that should get the money. Mundle said there was no money passed on.

Mundle said some of those homes weren't sold for a couple years and he lost up to \$75,000. Lawrence said that wasn't because of the charge for the water. Mundle said he expected these questions from you, but in his opinion they are irrelevant. Moegerle said if there is a payment made by the city, we have to have be able to justify it, we have a due diligence requirement. She said if we didn't the line would be out of North Dakota saying we have a claim, it is because we have a responsibility to the residents to be careful with their money. It is why she is asking these questions, representing the taxpayers. DeRoche said he can't change what went on with the previous council or administrator, but he is probably one of the most honest and direct person you are going to meet. He said and if he doesn't know the questions, he will find the answer. DeRoche said and if they ask me why did you pay Mr. Mundle this, he can say because this is what happened and he can say that with all honesty. He said he is not saying what you are saying is wrong, but he thinks we need to sit down and go over everything. Mundle said that sounds good to him. Meeting was scheduled for 10:00 a.m. Monday, September 19, 2011 with Mr. Mundle, Jack Davis, Council Member DeRoche and Mayor Lawrence at City Hall.

Proposed
Reduction in
Force

Davis explained there are staffing concerns in the Building Department that require evaluation due to a decrease in the number and value of permits issued over the past three years.

Permit fees for this Department have declined from \$304,057 in 2008 to a projected total of \$77,000 for 2011. It is not anticipated that fees projected to be collected for 2012 would increase substantially over those that were projected for 2011. Fees from permits are expected to be a significant portion of the funding source for this department. The Building Department budget for 2011 is \$265,066.

One proposal for reducing costs in this department is to eliminate the Administrative Support Position and reduce the salaries/wages of the Building Official and Inspector by 20%. This would result in a gross savings of \$98,527. Deducting \$16,341 for 39 weeks of anticipated unemployment claims would produce a net savings of \$82,186. This proposal would allow the City to retain the accumulated knowledge of the Building Official and Inspector and permit the department to function with no disruption and continuity of service.

As part of this proposal it is recommended that the City consider hiring a full time receptionist. This position is needed to provide a consistent source of contact and information to the public and eliminate the unproductive method of rotating existing staff to perform this duty. The cost for this position would \$53,882 annually.

Staff recommends that the administrative support position for the Building Department be eliminated effective September 8, 2011 and the salaries/wages of the Building Official and the Building Inspector be reduced by 20% as per advice of legal counsel effective September 25, 2011. It is also recommended, as part of this proposal, that the Building Official be required to obtain his PCA septic certification within the cycle of available classes required to sit for the certification test or face disciplinary action to be determined by the City Council.

If the recommendation of eliminating the Administrative Support Position is approved it is also requested that Council approve the creation of and advertisement for a receptionist position at a Grade 3 pay level which represents an annual compensation package of \$53,882.

Moegerle made a motion to eliminate the Building Department Administrative Support Position effective September 8, 2011 with two weeks severance pay and the salaries/wages of the Building Official and the Building Inspector be reduced by 20% effective September 25, 2011. The Building Official is required to obtain his PCA septic certification within the cycle of available classes required to sit for the certification test. Also to approve the creation and advertisement of the receptionist position at a Grade 3 pay level. Lawrence seconded. Moegerle said these are jobs and peoples lives, it is a necessary thing to do but a painful thing to do and so this is not an easy motion to make. She said she hopes that is relayed accordingly. Davis said it is nor was it a pleasant recommendation to make but in light of the economic situation, it is a choice that we are faced with. Lawrence asked with this 20% reduction so we are clear on that, they are reduced to a four day work week. Davis said no, there will be no reduction in hours, just a reduction in salary, it was advised that we do it this way so that there wasn't a problem with coverage of benefits and fair labor standards act. Moegerle said because these are exempt employees. She asked should this motion be amended with consequences for the Building Official if he does not obtain his septic certification following the next round of classes. Davis said that is certainly up to Council and probably something we need to consider to make sure this action is followed through with. Vierling said he would suggest that you do this as a separate resolution on the issue and opposed to identifying consequences, simply say that you want to reserve the opportunity if he does not complete to revisit the issue and

impose any disciplinary or sanctions. **All in favor, motion carries.**

Moegerle made a motion that if the Building Official does not take the PCA septic certification classes and obtain his certification within the cycle of available classes required to sit for the certification test, the City Council reserves the right to review his position further and/or impose sanctions as reasonable under the circumstances. DeRoche seconded; all in favor, motion carries.

Resolution
2011-41 Set
Final Levy &
Budget Date

Pierce explained Resolution 2011-41 sets the date for Wednesday, December 7, 2011 at 7:30 p.m. at City Hall for the adoption of the final budget and tax levy for 2012. She said this date and time will also be on the parcel specific notices.

Staff recommends adoption of Resolution 2011-41 approving the date of Wednesday, December 7, 2011 at 7:30 p.m. at City Hall for discussion and adoption of the Final Budget and Tax Levy for 2012. Further, that a copy of the adopted resolution be transmitted to the County Auditor.

Moegerle made a motion to adopt Resolution 2011-41 Setting the Final Levy & Budget Date and that staff send a certified copy to the Anoka County Auditor. Lawrence seconded; all in favor, motion carries.

Resolution
2011-42 Set
Preliminary
Levy &
Budget 2012

Pierce explained that the budget has been decreased by \$153,528 since the last meeting. She said those decreases included an administration increase for the receptionist position, building department decreases that were just discussed, for the fire department we got quotes for some items (heavy equipment was decreased by \$4,000 and software by \$1,000). DeRoche asked can you explain this further. Pierce said quotes were obtained for the Self Contained Breathing Apparatus (SCBA) breather air compressor. She said cost of equipment plus shipping will not exceed \$16,000. DeRoche asked is the compressor we currently have that bad. Davis said it is something that needs to be replaced.

DeRoche said we cut back on the police coverage, they took a hit. He said he didn't catch this on the consent agenda, but he wanted to discuss this. DeRoche said the FEMA grant; it is not a guarantee that the City is going to pay that continually. He said he has had discussions with the staff and at some point the City could be on the hook to pay more money mandatorily and plus the \$17,000. DeRoche said he has spent the last couple weeks going from city to city talking to police departments, fire departments, city administrators and everyone is having to cut back. He said it is not a matter of gee whiz, it is no, the nice projects are done, the fire is cutting, police are cutting, staff is getting down to bare bones and if anyone checks with other cities they are going to find out that is what is going on. DeRoche said if you are going to replace equipment if it is worn out, so be it. Moegerle asked is the mandatory, voluntary \$17,000 contribution included in this budget. Davis said the relief association contribution, yes it is.

Moegerle made a motion to table Resolution 2011- until we can have a special meeting with the full council, no later than September 14, 2011 so we can approve the budget.

Davis said we can approve the budget as it is, we can always decrease this up until December 7th time period. DeRoche said he also questions why we have three Council Members again, when we are talking the budget here, he thinks all five should be here and to approve it. He said he thinks the reasoning's need to be put out there. DeRoche said to just not show up, is just not appropriate and he thinks we need to put this out there. Davis said he would recommend you approve this so we can submit it to the county and then

Council is entitled to look at budget reductions until December 7th. DeRoche said he is alright with that as long as that is what we do. Lawrence asked you need to get this to the county by when. Pierce said September 15th.

Moegerle withdrew her motion. Pierce read the Self Contained Breathing Apparatus Description, which includes that it will make it compliant with OSHA and NFPA.

Pierce said to make provisions for these proposed and potential changes, which decrease the General Fund budget \$153,528, a General Fund levy of \$4,192,170 is necessary. The General Fund proposed levy is \$489,175 or 10.45% less than last year's levy.

To service existing debt, a market based debt levy of \$147,328 is required to meet the debt service requirements for the 2005A Public Safety Bonds issued for the fire station and the weather warning sirens and a tax capacity based debt levy of \$158,000 is required to meet the debt service requirements for the 2008A Sewer Revenue Bonds.

The total property tax levy amount proposed is \$4,497,498. Resolution 2011-42 provides for this property tax levy.

Preliminary 2012 General Fund expenditures decrease \$169,967 or 3.42% from the adopted 2011 Budget.

Staff recommends adoption of Resolution 2011-42 approving the preliminary property tax levy for 2012 at \$4,497,498 and setting the preliminary General Fund and Debt Service Budgets at \$4,796,598 and \$1,563,616 respectively. Further, that a copy of the approved resolution be transmitted to the County on or before September 15, 2011. Can change up to December 28th, she believes. Amount goes on parcel specific notices and meeting would be December 7, 2011 for public input.

DeRoche made a motion to adopt Resolution 2011-42 Approving the Preliminary Property Tax Levy for 2012 at \$4,497,498 and setting the Preliminary General Fund and Debt Service Budgets at \$4,796,598 and \$1,563,616. Lawrence seconded; all in favor, motion carries.

Resolution
2011-43 Set
Preliminary
EDA Levy &
Budget 2012

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

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

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

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

The tax levy must be submitted to Anoka County by September 15, 2011.

Also attached is a proposed EBEDA budget for 2012. The EBEDA has not had an opportunity to review the budget.

Staff recommends adoption of Resolution 2011-43 approving the preliminary EBEDA property tax levy and proposed budget for 2012 at \$163,428. Further, that a copy of the approved resolution be transmitted to the County on or before September 15, 2011.

Moegerle made a motion to adopt Resolution 2011-43 Approving the Preliminary EBEDA Property Tax Levy and Proposed Budget for 2012 at \$163,428. DeRoche seconded; all in favor, motion carries.

Consider
Resolution
2011-44
Consenting to
EBHRA
Resolution
2011-06
Adopting 2011
Tax Levy
Collectable in
2012

Pierce explained that the East Bethel City Council passed enabling Resolution No. 2009-36 establishing the East Bethel Housing and Redevelopment Authority (EBHRA) on May 20, 2009. The EBHRA is a taxing authority independent from the City of East Bethel and is authorized by Minnesota Statute 469.033 to adopt a levy on all taxable property within its area of operation, which is the City of East Bethel, Minnesota.

At the Wednesday, July 6, 2011, EBHRA meeting, a resolution adopting no tax levy collectible in 2012 was approved after review of the 2012 EBHRA Budget.

Staff recommends adoption of Resolution 2011-44 consenting to Resolution 2011-06 approving the HRA Budget and Tax Levy for 2012.

Moegerle motion to adopt Resolution 2011-44 Consenting to Resolution 2011-06 approving the HRA Budget and Tax Levy for 2012. Lawrence seconded; all in favor, motion carries.

MnDOT Grant
Application
for Service
Road from
215th to 221st
(Co. Road 74)
Avenue NE

Davis explained that staff is seeking authorization to apply for MnDOT Cooperative Agreement Funds to finance a service road between 215th Avenue and 221st Avenue on the west side of TH 65. This project is consistent with the City's Comprehensive Plan.

This project is estimated to cost \$1,590,968 and would be financed with a MnDOT grant of \$702,000 and the balance being a combination of City MSA funds and Street Capital Funds.

This request authorizes us to apply for the MnDOT grant.

Staff recommends approval of the request to submit the resolution authorizing the application for MnDOT Municipal Agreement Funds for this project.

DeRoche motion to adopt Resolution 2011-45 Requesting Participation in the Upgrading and Construction of a Frontage Road along Trunk Highway 65 to Consolidate Access Points onto Trunk Highway 65 and approval of the request to submit the resolution authorizing the application for MnDOT Municipal Agreement Funds for this project. Lawrence seconded; all in favor, motion carries.

Council
Reports -
DeRoche

DeRoche said noticed the fire department must have been doing training last night they had all the trucks outside the station. He said he has been running around to a lot of cities, pretty good reception, they are more than willing to talk. DeRoche said everyone is in the same boat; everyone needs to understand that any cuts made are not made for sake of doing it. He

said times are tight all over and you either make changes or you get caught up in it and it is not going to work.

Council
Reports –
Moegerle

Moegerle said it has been a little bit quiet but there has been some brainstorming going on for the EDA. She said an important thing is going on, next week, on September 13th the Connect Anoka County (fiber project) is having their ground breaking and Connexus will be there. Moegerle said it will be good time to rub elbows with the EDA development people if you can be there, and she hopes we can get this to the EDA folks in their packet for next weeks meeting. She said it has been kind of a nice break after a hectic summer.

Moegerle said and there is the GRE meeting tomorrow at 4:00 p.m. to possibly come to a solution, to begin the process. DeRoche said speaking of GRE there seem to be some issues with GRE and Elk River and Andover, it has been in the news.

Council
Reports -
Lawrence

Lawrence said we have been quite busy; we met with local businessmen, exiting users regarding their ERUs. He said we had residents complaining about long grass and we dealt with that. Lawrence asked can we look into going electronic on the packets, do we have numbers on this. Davis said we will look into this. Moegerle said so long as we still have the option to have a hard copy in a pinch. DeRoche said the only problem he sees is not having anything at the meeting. Moegerle said and what about the attachments. Davis said there can be a problem with the attachments, or you can request we send it to you by e-mail.

Lawrence and the only other issue he has is GRE. Davis said we will be meeting with GRE tomorrow, Strommen, Moegerle, Boyer, Hanson and myself and 4 or 5 members from GRE. He said we will see if there is any compromise.

Closed
Session –
GRE
Settlement
Discussion

Vierling said for the benefit of the public and the public record, Council has recommended we go into closed session per Minnesota Statute 13D regarding a matter of litigation, GRE vs. the City of East Bethel and a second matter Teamsters Union Negotiations which will be tape recorded and kept as required by state statute. Council will return into open session to announce any motions or actions.

Moegerle made a motion to go into closed session to discuss the GRE Litigation and Teamsters Union Negotiations. Lawrence seconded; all in favor, motion carries.

Vierling said the Council has concluded the closed sessions. He said attending were Council Member Moegerle, Council Member DeRoche and Mayor Lawrence. Also attending were Jack Davis, city administrator and myself, city attorney. Vierling said in the matter of GRE vs. City of East Bethel no specific actions or motions were made. He said in the matter of the Teamsters Union Negotiations the Council was presented with outstanding issues and proposals but no specific actions were taken.

Adjourn

DeRoche made a motion to adjourn at 11:01 PM. Moegerle seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk

over the historical part of this from last year and that you wanted to see those reductions made this year. He said he didn't know that there was anything specifically agreed upon that he was aware of. Davis said this proposal, and it is just two alternatives, there are others we can consider. Boyer said again, he is not going to be supporting this budget, so he feels his opinion is kind of irrelevant.

DeRoche said so what are our options. Davis said the two options we sent to you were number one, reduce building official salary by 20%, require him to comply with the original terms of his employment and obtain his septic certification and eliminate the administrative support position. He said the second option is to reduce the building office salary by 20%, reduce the building inspector salary by 20% and eliminate the administrative support position and require the building official to comply with the original terms of his employment and obtain his septic certification. Moegerle asked if we reduce this by 20% are we furloughing them so they are working four days a week or six hours a day or how is that plan going to be. Davis said his recommendation would be to have them work four days per week.

DeRoche asked Boyer if he recalled the stipulation with Martin that he had to get his sewer certification, did that ever come before Council. Boyer said yes and that was brought up in the last Council meeting discussions, whether it made it into the meeting minutes or not, he does not know. He said but Council was well aware of this and this was considered when eliminating the position. Moegerle said and he is earning \$85,000 and the nearest one she can find from the League of Minnesota Cities is \$79,000 so that plus not having the septic certification, doesn't sit well with her. She said that is a tough situation being at the top of the pay scale and not having the top of the qualifications. Lawrence asked Boyer's opinion on that. Boyer said when Council hired Martin it was everyone's expectation that he was going to, that it was just a matter of months to acquire. He said it is not an especially onerous thing to get. Moegerle said it is an open book test. Davis said according to Martin the reason he hasn't taken test is after he was hired the training budget was taken out and no monies were approved for him to take the classes that were required to sit for the test. Boyer said he doubts that was true, but he won't swear to it. He said often at the very end of the budget cycle Council would find another \$25,000 and leave it to staff to do so and he knows Davis has gone through those. Boyer said but usually you would come up with your share of it.

Davis said so Boyer your proposal would be to eliminate one of the positions, is that the position of building official or building inspector. Boyer said building inspector position. He said and then give the building official a set time to acquire the septic certification. Moegerle asked like six months. Boyer said yes. Lawrence said the issue with six months is there may not be classes available for that test. Davis said we would have to determine what he needed and make the schedule concur with that. Boyer said he would give two class offerings if there was one a month for the next two months.

Moegerle said just so we be sure we kick this around, as far as the building inspector's qualifications, on paper, does he have all the qualifications that our building official job description needs. Davis said he does, he has his building official certification. He said both the building official and building inspector are certified building officials. DeRoche asked total budget responsibilities are slightly over \$265,000, what is expected to come in. Davis said this year we projected \$105,000 but if we go with the funds we have received and project to the end of the year it will probably be more like \$77,000. Lawrence asked do we have any more new housing starts. Davis said we had issued one permit for a new housing start and Martin did inform me we might have one more on the horizon, other than that we

have no proposals at the time for any new residential or commercial construction.

Boyer asked Pierce know we are supposed to equal fees and costs, summer and spring, but can you carry costs over from year to year. Pierce said yes, she is not really up on this, but believe we are also restricted by the state rules on building permit fees. She said we can't charge what our costs are. Boyer said but you also can't charge more than what your costs are. Pierce said correct. She said we have to do an annual report to the state of our annual building permit revenue and our costs and there are years when times are good when all cities brought in abundant permit revenues but in the last few years of course permit revenues have not been covering costs.

DeRoche asked what is pay difference between the building inspector and the building official. Davis said the total with wages and benefits is about \$31,000. Boyer said but you have to have a building official. Davis said yes, we are required by statute to have a building official. Boyer said so if you got rid of Martin you would have to give Sackey a raise to be the building official. DeRoche said this is just something he has been beating around in his head, and he did talk to Mike down at the state and how can we justify the amount of money going out in that department and not coming in. Lawrence said he thinks that is why this is on the table for discussion. DeRoche said no matter what we do someone is not going to like it. Boyer said he don't like it either, he doesn't like laying people off. Lawrence said but we don't make work for people.

DeRoche asked how does our building official salary compare to other cities. Davis said for cities in the 10,000-15,000 population range, ours is the highest paid. Moegerle said she has the statistics from the League of Minnesota Cities, for metro cities 10,000 to 15,000 population, Hugo is \$78,285; North St. Paul is \$78,873; Vadnais Heights is \$68,972; and East Bethel is \$84,468. She said there is a building official opening in Owatonna and the range is \$58,946 to \$65,494. DeRoche said so we are slightly higher. Moegerle said we are \$6,000 higher than the highest. She said they have for the un-aged average of \$77,650 and aged average, whatever the difference may be is \$79,864. Moegerle said so one way or other we are a minimum to \$5,000 to 6,000 higher than everyone else, than actual. Boyer said but remember to, we expect our building official to do code enforcement. Davis said and there are a few other duties that Martin handles in planning to, he does some review stuff, he does crossover a little bit out of building department duties. DeRoche asked what are Sackey's skills or certifications. Davis said Sackey has all the certifications that are required for building official and septic design certification; he has all the certifications that are required of a building official. Moegerle asked can he do all the duties that Martin currently does. Davis said that is a question that one can only answer after he performed the duties of the job for a while. Lawrence said he would think the answer would be there are job duties that Martin does that Sackey does not do yet. He said that is not to say that Sackey is not able to. Davis said currently there are things that Martin does that Sackey does not perform.

Moegerle said let's talk about the receptionist which is a little bit more of a change. Davis said personally he thinks a receptionist is one of the more important positions you can have as a City, which is always the first face that people see when they come to the City. He said personally he would like to have a full time receptionist it would eliminate a lot of scheduling problems that we have with staff personnel now. Davis said it is somewhat detrimental to their workload when they have to transition from their regular duties to the receptionist. He said also with the full time receptionist you have the continuity of a contact and the information that is given out to the public. Davis said as it stands now we may have three different people performing the duties and they all have their own styles and maybe

slightly different ways of delivering information. He said sometimes that can be misleading or confusing to the public. Davis said this person as he envisioned it would have certain other clerical duties, help with recycling program and perhaps do some clerical work as it relates to permit issuance for building department. Boyer said he has something to ask, because he hates losing institutional knowledge. He said he assumes there is a pay difference between the receptionist and administrative support for building department. Moegerle said yes, \$15,000.

Boyer said the next question is probably the \$64,000 question, what is the minimal amount of labor that the building department can function with. He asked can they function if suddenly we just have a building official and no clerical staff. Davis said if we just had a building official he thinks whoever does the receptionist duties would have to assist with some clerical duties. He said eh has discussed this with the building department and Martin's opinion was we could function without the administrative support position. Davis said Martin indicated to me that his recommendation initially that the administrative support position wasn't needed. He said this was with the thought that there would be a building inspector. Davis said if it is just one person then there would have to be someone to lend a hand with some of the clerical duties there.

DeRoche said out of curiosity, with the way things are right now what is the time spent on. He said he is not a building official, not a building inspector, he has no clue. DeRoche asked are buildings being inspected, well we are not building, are remodeled's being inspected. He said he hates to get back on this, but one of the minimum qualifications was a MPCA certification as an ISTS designer I or ability to obtain certification within one year of employment, thorough knowledge of applicable building, mechanical and on-site sewer systems codes, as well as relevant codes such as ADA, CDC, etc. Ability to interpret and apply these codes and laws. He asked is that what we have right now. Davis said it is, he doesn't think there is any question about Martin's ability to interpret codes or knowledge of codes. He said the issue that we have discussed is the issue that he hasn't obtained his septic certification. Davis said to give you an idea of what they are doing in the building department there have been 187 permits issued this year. He said only one is for a new single family construction, these range anywhere from roofing projects to deck additions to remodeling to septic system changes. Davis said we are averaging about 20-25 a month. He said the receptionist takes in about 314 calls in 15 days and we average about 20 permits a month. Davis said that is what the walk up business is, in addition to inspections and code enforcement. Boyer said he had a building inspector license at one time, never worked in that job. He said the ISTS certificate is fairly recent for doing sewer and septic, maybe seven or eight years ago. Davis said he thinks that is accurate he is not sure of the date. He said one of the reasons it is place now, is we have to submit an annual report to the PCA on what we are doing with our septic issues. Davis said and the PCA has mandated that this report be done by a licensed ISTS designer. Boyer said there were a lot of people in the building trades that were pretty upset about this. He said because now you created this whole industry where homeowner had to pay \$200 to get a design for septic systems that you could get off the internet for nothing and suddenly you were paying \$200 for someone to put their stamp on it. DeRoche said he doesn't think we should be coming up with ways to make money off of people to fulfill the budget; he has a real issue with that. He said he has been going to a lot of cities and the first person you talk to is the one at the desk; it kind of says what your City is all about.

Moegerle said where she would like to go to is we keep talking about the building department and that is not correct. She said we have a community development department

with a building inspections division and a planning and zoning division. Moegerle said we are forgetting that we also have an administrative support person in planning (Steffen-Baker), well paid support position within the community development department. Moegerle said she sees here where we can get more work for this administrative support person and have her cover this, is this what staff is anticipating. Davis said he hadn't anticipated that, he thinks the administrative support in community development can help out when needed. He said we would anticipate this position to have a lot more responsibilities in keeping up with the economic development projects, but she would be available to pitch in with work as needed, if the situation arose. DeRoche said again until things start rolling, and at which time we do and we get swamped we can always look at bringing someone else in. He said but until that happens, we are still paying people. DeRoche asked what does this administrative support position do, is it planning and zoning, he has no idea. Davis said she is the administrative assistant to the planning and zoning division. He said she assists the planning with zoning activities, planning activities, she does the clerical work and she is the part time receptionist right now. Moegerle asked when the building department administrative support position was created. Davis said the current person replaced someone that was previously in the position, so it was not created recently. Was abolished June 30th. Davis said patty's position has been around for quite a while.

Boyer said he wants to propose that we take \$10,000 of the building official's salary until he gets his septic certification. Moegerle asked and when he gets his certification would he get all of it back, or does he just get \$4,000. Boyer said all of it back. He said and then he would eliminate the building inspector and the administrative support position assumes the duties of the receptionist along with the current duties. Boyer said he knows then you are overpaying the receptionist, but then you maintain the institutional knowledge and what we have invested in training this person. Moegerle asked doesn't Sackey have more institutional knowledge is the first point; he has been here longer than the administrative support person is her point. She said and second supposing that Martin can't pass his test or doesn't choose to take the test for whatever reason. Boyer said then that becomes a discipline issue. Moegerle said but then we have a built in building official that has all the qualifications. She asked what does Martin say about the idea of eliminating the building inspector. Davis said in his discussion with Martin, he said he felt they need the building inspector and felt they could run at a reduction of 20% and that is how we came up with those numbers, cutting 20% and without the clerical support. Moegerle asked we just unitarily cut his salary but \$10,000 or is that an issue with the union. Davis said Martin's position is not a union position, so that is not an issue, Sackey's position is union. Lawrence said Sackey could take a reduction in time of 20% and we wouldn't have an issue with the union with that. Davis said he has already addressed this situation with the union. He said the reduction in times is purely budgetary.

DeRoche asked how much of a difference would that 20% in time really make. Boyer said he thinks what he suggested would save roughly \$93,000 a year. He said and a 20% reduction of the two salaries together is about \$40,000 and then the \$10,000. Lawrence said the other option would be to eliminate all their positions and subcontract this out. Davis said that is another option, but what we lose there is we do have a lot of walk up business. Boyer said the people that subcontract don't get really good service. Davis said what would happen then is the residents would have to make appointments to come get their building stuff; we get 20 calls a day and issue about one permit a day. Boyer said and we would still have the code enforcement issues. Davis said he would not recommend totally gutting the building department, think we need to retain at least some of those services. Lawrence said this is something that is out there and he knows people are doing and he wanted to toss it out

there.

Moegerle said she likes the idea of like the idea of cutting \$10,000 and then making the decision later of what to put back, as the short term with regard to Martin. She said the 20% furlough for Martin and Sackey she can get behind, she still needs more information on the administrative support position and is that something we can just eliminate then, they feel comfortable with not having that support dedicated to them. Davis said that is correct. Boyer said but then you are still hiring a receptionist and not saving that much. Davis said it is a small savings, but he thinks you are getting a dedicated person. Boyer said he is not opposed to that idea, what he is opposed to is investing time into people and then having them go. Moegerle said she appreciates that but she has heard the receptionist talked about as being the face of the City or the face of the business and that this is the contact person and sells the City. She said and certainly the administrative support person can apply for the receptionist position. Boyer said he was coming from the position that sooner or later we will need an administrative support back in the building department and it would be a lot easier and cheaper to slip them back in there.

Moegerle asked with our current situation, does the administrative support do some of the receptionist duties currently, is that shared at this point. Davis said the receptionist position is shared between the building department administrative support and planning department administrative support, they alternate, four hours a day at the position. He said if both of them are off then it is shared among the accounting technician, or deputy clerk, finance director, or even he would sit out there. Davis said there are occasions when they are both off, not a lot, but some. He said and if only one is here then we have to give them breaks during the day and fill that with other people. Davis said the thing about it is a lot of people have a problem transitioning between both jobs. He said there are certain things you can probably do both there, but it probably leads to less productivity. Davis said he understands Boyer's point, one of these things where there is no easy or good answer. Moegerle asked if the current administrative support person had experience in a building department before coming here. Davis said not to his knowledge, she had experience in asphalt company and a little experience in City environment.

Moegerle asked has the building official considered the effect the 20% for both him and the building inspector and is he completely satisfied that if we did that and the administrative support position was eliminated that the building office division would continue. Davis said that is correct, he feels like it will continue with the same level of service and they can still operate efficiently. He said that is from his discussions with Martin, Martin is aware that Council is considering reductions in his department. Davis said the 20% is not edged in stone, it was just something that was discussed and he is aware that it could be different than that. Boyer said why he struggles with doing it that way, is you are paying the building official to do the administrative duties, because the administrative duties aren't going away, someone still has to do them, and at the very least you are paying the building official to do them who is way more expensive than the administrative assistant.

DeRoche said if we were really booming, and development was happening and these guys were running their tails off how the heck would we even survive. He said it sounds to me like now their plates pretty much full, what would happen if things really picked up. Davis said it is like everything else, if things really picked up we would have to look at putting an additional person on. He said hopefully we will be faced with that situation sometime in the future. Moegerle said and hopefully we will need another support person in economic development and then community development will have another full time employee.

Davis said an answer to your question about having the highly paid building official do clerical work, he would probably be doing some, but we would look at these slow times that the receptionist could help out.

Boyer said and from his memory Sackey does not have any inspection experience in commercial buildings. Davis said he is not sure about that. DeRoche said we are not in a situation that people are just doing things to justify their position. Davis said no. He said but in terms of what the department is doing, we could function with at least one person. DeRoche asked do any complaints come in on these guys. Davis said on both, just like any other employee. DeRoche said whoever is here has to be able to work with people and it can't be done selectively. Moegerle said she is looking at the job descriptions and none of them require commercial inspection experience. Boyer said we don't need them to do hospital's and school's all that stuff goes to the state, but basic Target or Wal-Mart, and there is a big difference in electrical and mechanical. Moegerle asked has Martin talked about any other ways to reduce his budget other than this. Davis said if you look at his budget, there really isn't anything else in there. He said this department is 90% wages.

DeRoche said he hates to ask anyone to take concessions, but we are kind of up against the wall. Boyer said the only other thing he wants to throw out there is if you cut peoples time by 20% that means they probably are going to try to get employment for that time. He said and that is not necessarily a good thing. Boyer said you could go to work on a sewer job for a municipality. He said and at the same time at your City job, you are suddenly expected to be inspecting it. Davis said it is part of the personnel policy that anyone that takes secondary employment seeks permission from the city administrator. Davis getting back to the proposals he presented, he was trying preserve the integrity of the department, to keep it running smoothly and efficiently and try to minimize the impact of layoffs as much as possible and still produce some savings that would hopefully reflect attitudes and desires of Council.

Lawrence asked have you gone over this information with Martin about the reduction. Davis said yes he has. Lawrence asked and he is okay with this. Davis said he understand the situation his department is in. He said understands Council has and is seriously considering this for this year, so he is well aware that there is more than likely going to be some changes. Moegerle asked how soon the reduction in force could occur. Davis said this is something that would have to be approved by Council, and you cannot approve anything tonight so it would have to be done at the September 7, 2011 meeting unless you want to call a special meeting. Boyer asked how long notice do we have to give. Davis said he doesn't think we have to give 30 day notice, sometimes if relieving an employees, it is best if you relieve them and just let them go that day, give them time to clean out their personal effects and would recommend if elimination is involved at least 2 weeks severance. Council was unanimous that two weeks severance should be considered. Boyer asked are we self insured for unemployment. Davis said yes. He said if there was a reduction in time, those employees would not qualify for unemployment. Davis said but if you eliminated the administrative support position, then the exposure to unemployment insurance would be a minimum of \$10,894 and probably a maximum of \$16,239. Boyer said what you are saying about the furlough might not be true; we just went through this with the state.

Lawrence said so the option before us is a 20% reduction to the building official and building inspector, eliminate the administrative support position and create a receptionist position. Boyer said basically the unemployment exposure is the same no matter what we do; eliminate the administrative support position or the building inspector. Davis said that is

correct. Lawrence said this is just a reduction because of lack of work. DeRoche said he has been in jobs where there were certain qualifications you had to meet and if you didn't meet them within a certain amount of time, you were gone. He said he is not sure about the government sector, but in the private sector if you needed the qualification you paid for it as part of your job unless it said otherwise, as part of your certification that you need to him you have to have it. Moegerle said and she understands the personnel file does not say the City would pay for it, understand there is a reimbursement policy. Davis said the City does have a reimbursement policy for classes, but generally the City has paid for classes that contribute to an employee's knowledge or acquirement of licensure. He said we did this with the sewer treatment plant operator.

Moegerle said she can understand paying for continuing education and maintaining certifications, but this is a requirement of his job and a qualification and reimbursement of it, she has a hard time seeing that as being an appropriate payment. DeRoche asked Boyer if you went to work for the state and there was a certification that you had to have and you didn't get it, what would the state do. Boyer said he doesn't think the state would have hired you to begin with. He said if that was a condition of employment that is one thing. Davis said it was made a condition of employment it stated within one year. Boyer said maybe it is true, but he would be hard pressed to believe the training funds were not available for the price this costs for that course, don't think it is very expensive. He said that is why he likes the idea of taking money away from salary until it is done, there is an incentive, either do it or the money is not coming back. Moegerle said he has been paid as a fully qualified building official for years and he hasn't been, that is ethically questionable to her.

Davis said there is one other consideration, if the building inspector was eliminated and the building official kept as it is we would have to contract out for septic license work. Boyer asked how many permits have been involved with this, can't be many tends to only be new houses. Davis said what we have is issues with septic replacements that are associated with new construction, remediation stuff; anything that involves a septic system now the person with the license is required to handle that. Boyer said he agrees, but it is probably 5 or 10 out of all our permits. Davis said he would say it is probably 25% of all our permits.

DeRoche asked (for example) who has been working the sewer systems in the beach. Davis said Sackey has to anything that has to do with design work, remediation, work anything that has to do with the septic systems, Martin can go look at them, but he cannot sign off on them. DeRoche said so if we eliminated the building inspector, we would have to pay someone else to do this. Davis said correct, to sign off on and perform the work. Boyer said but we could probably pretty easily contract with another City to do this. DeRoche said but then you are going from the experience that Sackey has in the field, he has experience doing it, he knows what is going on, now Martin comes in and is a newbie. Davis said he is not sure what the level of experience in septic is, the big difference is Sackey has his certification.

DeRoche asked is code enforcement being used to answer complaints or going around to look for things to enforce. Davis said to answer complaints; we are not a Council or City that is picking on people. He said if they see something obvious they will investigate it. Davis said but until a complaint is called in, they are not going out and looking under rocks to find things and try to create an issue where one doesn't exist. Davis said he is sure there has been and hopefully there won't be too many, but there are probably people that complain about me. He said this is not an easy decision, this is a tough one and anytime you are dealing with personnel, it is always compounded by the fact that people's lives are affected

and it's a very difficult decision. Moegerle asked so what work we have would be too much for one person. Davis said he thinks at this time to eliminate two positions would be going a little too far. He said if we are at this point next year and in the same recessionary climate we are now, maybe it would be time to look at a further reduction.

Boyer said the question is fairly simple, either going to go with two building officials or a building official and an admin support person. Davis said that is correct. Lawrence asked so the receptionist is at a Grade 3, gross wage of \$33,000. Davis said what kind of skews that is the cafeteria contribution. Lawrence said his opinion is reduce the building official and building inspector 20%, reduce the building official \$10,000 until he gets his certification and eliminate the administrative support. DeRoche asked but what happens then, it goes right back up. Moegerle said not automatically. DeRoche said he is looking at this from an economic standpoint and going back to what Boyer said, get rid of the highest paid. Boyer said financially it would make the most sense. Moegerle said but think about what we have invested in Martin so far. Boyer said he is not saying it makes the most sense other ways. He said to him it doesn't make sense to have the two building officials and eliminate the admin support because then we are paying the building official to do admin work. Moegerle said but on the other hand the admin support can't do building official work. Boyer said but on the contrary you are saving the institutional knowledge of the building inspector. DeRoche said we are paying our building official over \$113,000 and he has a hard time doing that. Boyer said but that is benefits and everything.

Boyer said he doesn't want two building inspectors. DeRoche said he is not decided. Moegerle said she wants two, the argument about the sheriff, cut too much to fast, start with the admin and 20% that is 40% and if you cut too far too fast, that is irreversible. She said plus we keep talking about cutting positions, but the fact is these are human beings; we are playing with lives doing this. Moegerle said so her thought is to take a moderate approach. Lawrence said he would do this also, 20% reduction and eliminate the admin support, we are paying them very well, both of them and we can justify the 20% because of lack of work we have for them. DeRoche asked about the 20% are we talking money or hours. Lawrence said money. Boyer said it is irrelevant; he is not going to vote for the budget anyways. Moegerle said but you got elected to give your opinion, your not going to vote for it, they have divided out consent agendas so you can pull out things you disagree with, same here. Boyer said but the fact of the matter is you need three votes to pass a budget and he is not going to vote for it anyways, so that is why his vote here doesn't matter. Moegerle said no, you got elected to give your opinion on everything so it is not irrelevant.

Lawrence said so his opinion he is going to go with the 20%/20% reduction to the building official and building inspector and reduce by \$10,000 until the building official gets his certification, eliminate the administrative support and advertise for a receptionist. He said it is not as deep as we want to go, but he thinks it shows a little caution. DeRoche said but the certification is part the of job and he thinks it shows a precedent. Moegerle said and that is a very good point and she appreciates that. Lawrence said he read somewhere that we should give him a chance to get that cleaned up quickly. Davis said it is the recommendation to give Martin time to get the certification when those classes are available and that it not be related to any disciplinary action. He said he thinks the monetary action is a great incentive. Moegerle said we can consider the reinstatement of the salary when the certification is acquired. DeRoche said we will save \$60,000 with this recommendation. Davis said the worst case scenario is \$51,000. Moegerle asked who was hired first. Davis said Sackey.

Boyer excused himself at 7:55 p.m.

Lawrence asked on page 99 of the budget book, Trails Capital. He said under Booster East Trail Phase 2, \$80,000 of budget to put that through would like to reduce to \$5,000. Davis said if we are going to reduce those transfers he would ask that you don't eliminate that totally, these figures reflect the completion of the trail from Booster East Park to 229th Avenue, the project that was suspended in January and later terminated. He said the only portion that was considered for construction and later approved for construction was the connection from Booster East to 229th Avenue and if Council desires to make reduction in the fund with this project cancelled it would probably be the best thing to do, but he recommends that the funds not be completely cut out, at least for matching in case a grant should become available in the future. Davis said he would recommend somewhere in the \$5,000 to \$10,000 range. Lawrence said he would recommend \$10,000. DeRoche said he would recommend \$5,000. He said we decided the project is dead. Davis said he is not recommending the project, but just to have funds available in case there is a grant that became available so that we would have matching funds. DeRoche asked can we at least change the name from Booster East. Davis said it would just be a trails capital fund transfer; this was in the capital improvement plan. DeRoche said and so that everyone knows that painting a line on the road is not a trail, to him it is a safety hazard. Davis said that is just a widened shoulder for pedestrian access. He said it might be listed as a trail on a map. Davis said so we will reduce the transfer to trails capital fund for 2012 to \$5,000. He said and we will ask parks to do reflect this with their plan.

Davis said we met with DuCharme regarding the fire department budget. He said there was a question on the heavy machinery line item. Davis said we did direct DuCharme to get quotes for the self contained breathing apparatus and there is a unit that can be purchased for about \$13,500 and with freight and tax it totals about \$16,000. He said so we reduced that from \$20,000 to \$16,000 in the budget and also took out a category for software licensing which wasn't needed, so we cut another \$5,000 from the budget. Moegerle said she asked about him getting five outfits but we have three people retiring so the question was do we need to outfit five new firefighters or can they use hand me downs. Davis said we discussed this with him also, but not everyone is the same size and a lot of this has to be fitted, some gear is fairly old and needs to be retired. He said this is pretty standard; they could reduce it to three, but would like to keep it at five. Davis said and they have to meet OSHA requirements.

Davis asked these cuts we are generating he is assuming they will be directed towards a reduction of taxes. He said it was talked about at one time about escrowing some of it away, but his personal recommendation is they should be directed towards a reduction in taxes or levy reduction. Davis said we do know that perhaps in the year 2013 we will be faced with a deficit in the sewer account of \$115,000 which is a manageable number, not trying to minimize but there are ways to handle that and he thinks the taxpayers are due to seeing the savings in this. DeRoche said he has no problem with that, the only problem he has is the payment is coming and if you lower the taxes now and give people a break and it isn't so bad. He said and people are starting to understand that there is a real good chance that their taxes are going to go up.

Davis said and Pierce is going to briefly explain the Homestead Market Value Credit and the Homestead Exemption Value. He said even though we cut our budgets might be no decrease on tax because of this. Pierce said what the state did on a property owner taxes bill instead of getting a market value credit, which actually was a credit against your tax bill, was for pay 2012 instead of it being a credit against your taxes it is a part of your market value that is

excluded from taxes. She said state was giving credit to homeowners and reducing the amount of the levy the City was receiving, but for 2012 what they are doing is the city will get its full levy, problem is additional money will be redistributed among property tax payers in the City. Pierce said so if we levied exactly the same amount pay 2011 to 2012 peoples tax bills would go up anyways. She said so if you are interested the League of Minnesota Cities (LMC) did a webinar. Pierce said she talked to the county and because the state came in so late with this change, they can't really tell us how it will affect East Bethel, just county-wide. She said the bottom line is the proposed budget gave you an opportunity to reduce taxes to begin with, but people should still see a decrease in their taxes how much she can't tell you at this point though.

Lawrence said it is his recommendation to use this as a tax cut measure for the City, to lower our taxes further. Davis asked about the sheriff's contract, \$93,000 mention to escrow half that amount in case we need to bump that up. Lawrence said yes.

Lawrence said the other maintenance thing we have to take care of is the paragraph that Sell added, the vacation. He said so we aren't paying for that. Moegerle said that extra paragraph that Vierling said was added after the contracts were approved and therefore should have never gone into effect. DeRoche said the employment agreements. Lawrence asked have we got that cleaned up yet. He said these are invalid contracts. Davis said we really haven't discussed that, think we mentioned it at one time and when his employment contract was approved and Vierling said it was customary for department heads to be given some leeway. He said but the phrase that is in the employment contract, if you wish that removed, then we can address that. Davis said we will have to make a proposal and have that voted on at Council. Moegerle said really, because Vierling said that was invalid. DeRoche said that paragraph was added after the Council voted and it was illegal. Davis asked for more information and then he will get the ruling from the attorney. He said we are probably talking about two separate issues here. DeRoche said that was when you offered Ayshford more vacation, but this paragraph dealt with all the previous contracts that staff had. Davis said there was some discussion on this; let the agreements die a natural death at the end of this year. Moegerle said and check this for anything to do with the furlough and Martin's agreement.

DeRoche said he has a problem with the fire department that when a calls goes out and all these people show up and they all stay there and get paid for the time called, until the time they get back. He said he thought DuCharme was going to come up with some kind of plan on because we do spend a lot of money on this. DeRoche said if a fire fighter is out there, great let's pay them. He said when he did EMS we didn't get paid, the training we did, we did on our own. Davis said the first step towards solving this problem was done before this Council took office where he segregated stations 1, 2 and 3. Davis said he would suggest that DeRoche, DuCharme and himself form a committee and sit down and come up with some kind of a plan on this. DeRoche said he asked him about this and he said maybe within a year and a half. Davis said he thinks if we give further direction he thinks we can expedite the process and get an answer quicker than that. DeRoche said he has a real issue with the rumors going around, such as the one going around that he is doing everything he can to stop the contribution of \$17,500 for the fire department. Davis said he heard that a couple weeks ago and he has made it a point to let it known that it not the truth, that to put it out there that it was going to be cut was an absolute falsehood. DeRoche said it is kind of crazy, as people know he is not afraid to say what is on his mind, he is direct and upfront, but he doesn't like rumors.

Davis said he made those proposals with intent trying to save as much as we could possibly could and to keep the building department functioning and to take into account that there are people behind those numbers. Lawrence asked if Martin has discussed this with Sackey. Davis said yes, Martin has discussed this with Sackey. DeRoche asked that when this comes down that Davis discuss it with Sackey.

Adjourn **Moegerle made a motion to adjourn at 8:27 PM. Lawrence seconded; all in favor, motion carries.**

Attest:

Wendy Warren
Deputy City Clerk

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

RESOLUTION NO. 2011-47

**PRELIMINARY CERTIFICATION OF DELINQUENT ACCOUNTS TO THE COUNTY
AUDITOR FOR COLLECTION WITH 2012 PROPERTY TAXES**

WHEREAS, East Bethel Code of Ordinances, Chapter 74, Sec. 74-126 (b) provides for the collection of unpaid utility bills through the property tax system; and

WHEREAS, East Bethel Code of Ordinances, Chapter 30, Sec. 30-105 provides for the collection of unpaid emergency services through the property tax system in the county which the recipient of the services owns property; and

WHEREAS, City Council must establish a certification cutoff date each year that will determine the appropriate certification amounts for delinquent accounts; and

WHEREAS, the attached list reflects the delinquent accounts and the amounts owed with the certification cutoff date of September 23, 2011.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EAST BETHEL, MINNESOTA THAT THE COUNCIL: That the following dates are set for delinquent accounts for 2010:

1. September 23, 2011 Certification cutoff date
2. November 2, 2011 Public Hearing date
3. November 16, 2011 Final Certification date

BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAST BETHEL: That the attached list of delinquent accounts and amounts is hereby adopted and made part of this resolution to be certified to the County for collection with property taxes for 2012.

Adopted this 21st day of September, 2011 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Richard Lawrence, Mayor

ATTEST:

Jack Davis
City Administrator

City of East Bethel
 Past Due Amounts, Period Ending September 23, 2011

PRELIMINARY 2012 CERTIFICATION LIST

Utility Billing Accounts

Address	Name	Balance	Certification charge	Certification amount
1024 243rd Ave	Fenton	\$1,094.56	\$70.00	\$1,164.56
1026 244th Ave NE	Kinsey	\$306.56	\$70.00	\$376.56
1050 243rd Ave	Tuon	\$1,423.85	\$70.00	\$1,493.85
1059 243rd Cir	Manthei/Lemma	\$1,354.51	\$70.00	\$1,424.51
1080 Fillmore Cir	Hunter	\$ 846.46	\$70.00	\$916.46
1095 243rd Cir	Jornlin/Cline	\$1,215.26	\$70.00	\$1,285.26
1131 Pierce Path	Dahlen	\$431.65	\$70.00	\$501.65
1142 243rd Ln	Bender	\$2,016.72	\$70.00	\$2,086.72
1153 Pierce Path	Demarais	\$554.25	\$70.00	\$624.25
24150 Whispering Cir	Bergstrom	\$1,482.70	\$70.00	\$1,552.70
24235 Fillmore Cir	Weisbrod	\$1,290.72	\$70.00	\$1,360.72
24292 Polk St	Pouliot	\$223.61	\$70.00	\$293.61
24384 Polk St	Bickell	\$335.82	\$70.00	\$405.82
		<u>\$12,576.67</u>	<u>\$910.00</u>	<u>\$13,486.67</u>

Emergency Services Amounts

Address	Name	Balance	Certification charge	Certification amount
1410 Carriage Hills Drive Cambridge, MN 55008	Williams	\$300.00	\$70.00	\$370.00
11824 Dunkirk Circle NE Blaine, MN 55449	Carlson	\$300.00	\$70.00	\$370.00
		<u>\$600.00</u>	<u>\$140.00</u>	<u>\$740.00</u>



City of East Bethel
City Council
Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 7.0 A.1

Agenda Item:

Proposed EDA By-Law Amendments

Requested Action:

Review and Possibly Approve of EDA By-Law Amendments to City Council

Background Information:

Staff is proposing amendments to the EDA By-laws as directed by City Council. The EDA reviewed and suggested changes at the September 13, 2011 EDA special meeting.

Attached for your review are the proposed changes as suggested by the EDA.

Attachment:

- 1. Proposed EDA By-Law Amendments

Fiscal Impact:

Not Applicable

Recommendation:

EDA requests City Council approve the suggested changes to the EDA By-laws.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

**BY LAWS OF THE
EAST BETHEL ECONOMIC DEVELOPMENT AUTHORITY
DATED: SEPTEMBER xx, 2011**

1. The Authority

Section 1.1 Name of the Authority. The name of the Authority shall be the East Bethel Economic Development Authority (hereinafter, the “Authority”), and its governing body shall be called the Board of Commissioners (hereinafter, the “Board”).

Section 1.2 Office. The principal office of the Authority shall be the East Bethel City Hall.

Section 1.3 Seal. The Authority shall have an official seal.

Section 1.4 Purpose: The purpose of the East Bethel Economic Development Authority is to coordinate and administer economic development and redevelopment plans and programs within the scope of MN Statutes 469.090 et. seq. for the City of East Bethel.

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2. Organization

Section 2.1a Officers. The officers of the Authority shall consist of a President, Vice President, a Recording Secretary, a Treasurer, and an Assistant Treasurer. The President, Vice President and Treasurer shall be members of the Board and shall be elected annually, and no Commissioner may serve as President and Vice President at the same time. ~~The offices of Secretary and Assistant Treasurer need not be held by a Commissioner.~~

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Section 2.1b Ad hoc (non-voting) Members. ~~Ad-hoc members from the East Bethel business and residential communities shall~~ may be appointed to the Board by the City Council in a special capacity from time to time.

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Section 2.2 President. The President shall preside at all ~~meetings of the Board~~ meetings, and be appointed by the Board.

Section 2.3 Vice President. The Vice President shall preside at any Board meeting and exercise all powers and perform all responsibilities of the President in the absence of the President. ~~and may exercise all powers and perform all responsibilities of the President, and shall be appointed by the Board.~~

~~**Section 2.4** President Pro Tem. In the event of the absence or inability of the President and Vice President at any meeting, the Board may appoint any remaining Commissioner as President Pro Tem to preside at such meeting.~~

Section 2.54 Treasurer. ~~The Treasurer shall be the Executive Director of the Board.~~ The Treasurer shall receive and be responsible for Authority money, shall disburse Authority money by check only, keep an account of all Authority receipts and disbursements and the nature and purpose relating thereto. Shall file the Authority’s financial statements with its Secretary at least once a year as set by the Authority and be responsible for the acts of the Assistant Treasurer.

Attachment #1

Section 2.65 Assistant Treasurer. The Assistant Treasurer shall have all the powers and duties of the Treasurer if the Treasurer is absent or disabled. The Assistant Treasurer shall be the Fiscal and Support Services Director of the City of East Bethel (the “City”).

Section 2.6 Secretary. A Secretary shall be appointed by the Board to keep minutes of all special meetings of the Board.

Section 2.7 Recording Secretary. The Recording Secretary ~~or his/her designated appointee shall keep or cause to be kept~~ shall be appointed by the ~~City Council~~ Board to keep minutes of all regular meetings of the Board and shall maintain or cause to be maintained all records of the Authority. ~~The Secretary shall also have such additional duties and responsibilities as the Board may from time to time and by resolution prescribe.~~

Section 2.8 Executive Director. The Executive Director shall be the City Administrator of the City ~~and~~ shall be appointed executive officer of the Authority and shall have such additional responsibilities as the Board may from time to time and by resolution prescribe. The City of East Bethel (or the Executive Director) shall maintain all records of the authority in accordance with applicable law and provide City Council with copies of those minutes.

3. Procedures of the Board of Commissioners

Section 3.1 Annual Meeting. The annual meeting of the Board shall be held the second regular City Council meeting date at 6:30 p.m. of the month of January in each year.

Section 3.2 Regular Meetings. ~~The Board shall hold regular meetings at least once the first month of each quarter preceding the second regularly scheduled City Council meeting, or at such other time as the Board may determine. Board will determine meeting start time.~~ The Board shall hold quarterly meetings during the first month of each quarter and at such other time as the Board may determine and set.

Section 3.3 Special Meetings. Special meetings of the Board may be called by the President or, in the event of the President’s absence or inability, by the Vice President at any time, upon three (3) days prior notice to all Commissioners and the Executive Director. ~~Upon the same notice, special meetings of the Board may also be called by any two Commissioners.~~ The Executive Director shall post notice of any special meeting in the principal office of the Authority no less than three (3) days prior to such special meeting.

Section 3.4 Quorum. A quorum of the ~~five~~seven (7)-member Board shall consist of ~~four~~ three Commissioners. ~~In the absence of a quorum, no official action may be taken by, on behalf of, or in the name of the Board of the Authority.~~ A quorum shall be required for the Authority to conduct business. A meeting may not be called to order and must be adjourned if, at any time, a quorum is not present for a meeting.

Section 3.5 Adoption of Resolutions. Resolutions of the Board shall be ~~deemed~~ adopted if approved by ~~not less than three Commissioners.~~ Resolutions may, but need not, be read aloud prior to vote taken thereon a simple majority.

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Section 3.6 Rules of Order. The meeting of the Board shall be governed by modified Robert's Rules of Order.

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4. Miscellaneous

Section 4.1 Fiscal Year. The fiscal year of the Authority shall be the calendar year.

Section 4.2 Treasurer's Bond. The Treasurer shall give bond to the state conditioned for the faithful discharge of official duties. The bond must be approved as to form and surety by the Authority and filed with the Secretary and must be for twice the amount of money likely to be on hand at any one time as determined at least annually by the Authority, provided, however, that said bond must not exceed \$300,000.

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Section 4.3 Checks. An ~~authority~~ Authority check must be signed by the ~~Treasurer, President and~~ Executive Director ~~and the Assistant Treasurer.~~ The check must state the name of the payee and the nature for which the check was issued.

~~**Section 4.4** Financial Statement. The Authority shall examine the financial statement together with the Treasurer's vouchers, which financial statement shall disclose all receipts and disbursements, their nature, money on hand and the purposes to which it shall be applied, the Authority's credits and assets and its outstanding liabilities. If the Authority finds the financial statements and Treasurer's vouchers to be correct, it shall approve them by resolution.~~

Section 4.5 Report to City. The Authority shall ~~annually make a~~ make an annual report to the City Council ~~giving a detailed account of its discussions, of its~~ activities and ~~of its receipts and expenditures for the preceding calendar year~~ accomplishments.

Section 4.6 Budget to City. The Authority shall annually send its budget to the City Council which budget included a written estimate of the amount of money needed by the Authority from the City in order for the Authority to conduct business during the upcoming fiscal year.

Section 4.7 Employees. The Authority may employ technical experts and agents and other employees as it may require and determine their duties, qualifications and compensation.

Section 4.8 Services. The Authority may contract for the services of consultants, agents, public accountants, attorneys and others as needed to perform its duties and to exercise its powers.

Section 4.9 Supplies, Purchasing, Facilities, and Services. The Authority may purchase the supplies and materials it needs. The Authority may use facilities of the City's Purchasing Department. The City may furnish offices, structures and space, stenographic, clerical, engineering and other assistance to the Authority.

Section 4.10 Execution of Contract~~ions.~~ All contracts, notes and other written agreements or instruments to which the Authority is a part or signatory or by which the Authority may be bound shall be executed by the President and Executive Director ~~or by such other Commissioners or Officers of the Authority~~ as the Board may by resolution prescribe.

Section 4.11 Amendment of By Laws. These By Laws may be proposed to be amended by the Board by majority vote of all the Commissioners, ~~provided that any such proposed amendment shall~~

~~first have been delivered to each Commissioner at least three days prior to the meeting at which such amendment is considered.~~ Amendments are to be effective only upon approval of the majority of City Council.

Amended this 21 day of ~~November~~ September 2011 by the Economic Development Authority of the City of East Bethel.

EAST BETHEL ECONOMIC DEVELOPMENT AUTHORITY

~~Kathy Paavola,~~ Heidi Moegerle, President

ATTEST:

~~Douglas Sell,~~ Jack Davis, Executive Director

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City of East Bethel
City Council
Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 7.0 A.2

Agenda Item:

Request for Proposal (RFP) – EDA Brand and Marketing Consulting Services

Requested Action:

Consider Approval of RFP for EDA Brand and Marketing Consulting Services

Background Information:

Presented with an opportunity to proactively address new growth, the community of East Bethel and its leaders are committed to shaping the future of the community in a way that compliments the existing important features and characteristics the City has to offer, yet provide for a strong economic base and amenities residents and business owners desire.

As part of the economic growth strategy, staff recommends the hiring of a consultant to identify a city wide brand and marketing strategy. As we seek to encourage and promote economic growth, a branding plan will send a strong, unified message for the city. A branding and marketing strategy will provide East Bethel with another resource in our tool box to guide and encourage economic growth and attract businesses and jobs to the community.

On September 13, 2011, the Economic Development Authority reviewed the proposed RFP and recommends approval of the RFP.

Attachment:

- 1. Draft RFP for Brand and Marketing Consulting Services

Fiscal Impact:

Recommendation:

EDA recommends City Council approve the RFP for Brand and Marketing Consulting Services.

City Council Action

Motion by: _____

Second by: _____

Three horizontal lines for signature or notes.

Vote Yes: _____

Vote No: _____

No Action Required: _____



Date: September 2011

**From: Stephanie L. Hanson
East Bethel City Planner**

RE: East Bethel Branding and Marketing Strategy Request for Proposals

The City of East Bethel's goal is to capture its unique and diverse qualities in a City-wide brand, with a marketing strategy that highlights and develops this character.

The attached Request for Proposal (RFP) outlines the process to work with our City to determine and understand what defines East Bethel. The ideal strategy to implement what the City of East Bethel desires to achieve will incorporate an emphasis on the diversity of East Bethel and focus on the different and distinct opportunities that will make our City a thriving place of business and residence.

The development of a City brand and marketing strategy will become synonymous with East Bethel and must reflect the values of the City both in terms of its course for future development and its past history. The City is seeking new and creative approaches to address economic development initiatives and strategies. We are seeking proposals that are designed to our specific situation and encourage those that consider, in addition to established programs, new innovations, creativity and uniqueness of strategies and branding that will separate the City of East Bethel from surrounding municipalities.

If you have questions regarding the process or the attached information, please contact me at (763) 367-7855. **All RFPs are due no later than 4:00 p.m. on October 21, 2011.**

SLH/jsb
Enclosure



City of East Bethel

**Request for Proposals:
Branding and Marketing Strategy**

Contact:

Stephanie L. Hanson
City Planner
City of East Bethel
2241 221st Avenue NE
East Bethel, MN 55011
(763) 367-7855
Stephanie.hanson@ci.east-bethel.mn.us

Dated: XXXXXX
Responses Due: xxxxxxxx

EAST BETHEL BRANDING AND MARKETING STRATEGY

About East Bethel:

The City of East Bethel is looking to identify a City-wide brand and marketing strategy to represent the entire city.

East Bethel is on the brink of significant change and has an exciting opportunity for economic growth. Located in northern Anoka County, the vibrant community of East Bethel encompasses nearly 48 square miles along Trunk Highway 65. Home to 11,626 residents and many businesses, the Metropolitan Council estimates East Bethel will more than double in population (23,500) by the year 2030.

Anoka County Road 22/Viking Boulevard is the major east-west route through northern Anoka County connecting Federal Highway 169 in Elk River to the west to Interstate 35 in Wyoming to the east. The east-west traffic along this corridor has at least 7,400 trips per day. Trunk Highway 65 is a major north-south route from Minneapolis through East Bethel to destinations in northern Minnesota. There are nearly 33,000 trips per day on this north-south route at the intersection of Anoka County Road 22/Viking Boulevard and Trunk Highway 65 (City Center District).

The Municipal Water and Sewer Improvement Project will be operational by the end of 2012. This will provide numerous opportunities for development of land in the East Bethel's future City Center District which will consist of, at a minimum, 1,100 housing units, 370,000 square feet of retail space, and 34,000 - 40,000 square feet of office space.

The implementation of municipal water and sewer services, and other major growth opportunities have prompted residents and leaders within the community to develop a long-term "vision" for what the City of East Bethel should look like into the future, and how the community can best allow and manage development without jeopardizing the core values and important features the City has to offer. Examples of these features include:

- Significant parks and open spaces with a vast portion of the community consisting of natural wetlands.
- Rural setting with large residential lots.
- Undeveloped land attractive to new development opportunities.

- Strong community interest in helping to shape growth and create a sense of place and identity within the community.

Presented with a tremendous opportunity to proactively address new growth, the community and its leaders are committed to shaping the future of the community in a way that compliments the existing important features and characteristics the City has to offer, yet provide for a strong economic base and amenities residents and business owners desire.

The challenge becomes clear that in the face of new development opportunities and the implementation of major infrastructure, the community must determine how it can best manage change while maintaining and preserving these and other unique features.

Expectations:

At a minimum the study should provide a report containing:

1. Research, information gathering and background review of community
 - a. The City shall be provided all raw data resulting from the review in an executive report, and
 - b. All data collected shall remain confidential and exclusive to the City subject to the Public Data Privacy Act.
2. Analysis of branding and marketing strategy, including, but not limited to:
 - a. current and prior plans, strategies and taglines;
 - b. websites, and
 - c. social media sites.
3. Analysis of public participation including, but not limited to:
 - a. City Departments and employees (i.e. online survey to all employees);
 - b. City Commissions (City Council, Planning Commission, Economic Development Authority, Housing Redevelopment Authority, Parks Commission, Roads Commission);
 - c. Area businesses;
 - d. Residents;
 - e. Area Developers;
 - f. St. Francis and Forest Lake Area School Districts;
 - g. Surrounding communities, and
 - i. City of East Bethel Comprehensive Plan.

4. Research and surveying methods including, but not limited to:
 - a. Online surveys;
 - b. Interviews;
 - c. Phone calls, and
 - d. Community polls.
5. Communication plan to update residents, business owners and employees of milestones and key findings, including but not limited to:
 - a. Page on existing website;
 - b. Monthly email updates;
 - c. Social media updates;
 - d. City Newsletter, and
 - e. City Billboards.
6. Creation of community branding and marketing strategy, utilizing results of public participation and EDA.
7. Utilization of existing logo or proposals for a new logo that are related to new branding and marketing approaches.
8. Master implementation strategy and detailed action plan:
 - a. Includes prioritization of tasks in regard to importance and feasibility, and
 - b. Final presentation of implementation strategy to Economic Development Authority and City Council.
9. Follow-up support including, but not limited to:
 - a. a follow-up survey to all participants one year after study completion to evaluate process and results, and
 - b. consultant support regarding implementation plan and action steps

Detailed work plan identifying:

1. Tasks to be accomplished and the amount of budget hours for each task and subtask:
 - a. This will be used as a work plan and managing tool for basis of invoicing, and
 - b. Include a not to exceed fee.
2. Identify deliverables:
 - a. Voice, video, data and other supplementary services;
 - b. Key milestones of project;
 - c. Level of City staff participation, and

- d. Status meetings identified through work plan (minimum four) with staff and EDA.
3. Detailed cost estimate of the study, including professional hourly rates and multipliers and estimated service/task hours. Other expenses related to the completion of the study will be discussed on a case-by-case basis. Preferred pricing will identify fixed cost bids with a menu of necessary and optional services:
 - a. Cost estimate as it relates to utilizing existing web software (GovOffice);
 - b. Cost estimate as it relates to utilizing other web software;
 - c. Cost estimate as it relates to creation of mobile website, and
 - d. Cost estimate as it relates to reimbursables; mileage, meals, etc.
4. Identify key personnel to conduct the project. No change in key personnel assigned to the project will be permitted without approval of the City.

Statement of Qualifications:

The following will be considered minimal contents of the proposal:

1. Goals, objectives, and project tasks to demonstrate the responder's view of the project and exhibition of responder's knowledge and expertise regarding community marketing and branding;
2. Outline of respondent's background and experience with particular emphasis on working with businesses, local level governments and non-profits:
 - a. Provide contact list for at least three (3) references in support of the background and experience, and
 - b. Provide samples work to support of experience of working with businesses, local level governments and non-profits if available;
3. Demonstrated ability to create and analyze customer survey, sales and marketing objectives, and
4. Demonstrated ability to analyze and interpret the regulatory and legal landscape by providing guidance on the regulatory hurdles of different delivery options.

Requirements:

- Coordination meetings with City staff

- Presentations to branding subcommittee, EDA and City Council per request

Evaluation Criteria:

- Proposer’s ability and capacity to meet all Request for Proposal conditions and expectations as solely determined by the City’s EDA
- The best fit with the City of East Bethel
- Value and price for services offered
- Ability to complete the job in the time allotted.
- Prior satisfactory conclusion of similar work or evidence of specific experience regarding community marketing and branding
- Stated and demonstrated understanding of the scope of work being sought
- After initial review of proposals, additional information (i.e. references, examples of work, etc.) may be requested
- After proposal selection, work may be put on hold to ensure branding, marketing and innovative strategies are aligned with the Vision and Goal process as outlined on page 4. and innovative strategies
 - Proposer may not charge additional cost for delay in process

The City does not guarantee selection of any vendor and reserves its right to reject all proposals. Furthermore, the City may or may not accept the lowest price quotation and reserves the right to select the proposal which best meets its needs and selection criteria.

RFP Timeline*:

RFP Issue date – September 22, 2011
 Proposals due – 4:00 pm, October 21, 2011 *
 EDA and City Council interview consultant finalists – November 2, 2011 (times to be determined)
 Award contract and begin work ** – November 2011
 Presentation of implementation plan to EDA and Council- No later than May 2012

Submission Deadline:

- Fifteen (15) hard copies of proposal and one (1) electronic version on CD including all attachments and supplemental information delivered to the East Bethel City Hall no later than 4:00 p.m. on October 21, 2011:

Stephanie L. Hanson
 City Planner
 City of East Bethel

2241 221st Avenue NE
East Bethel, MN 55011

- All questions by prospective responders regarding this RFP should contact:

Stephanie L. Hanson
City Planner
stephanie.hanson@ci.east-bethel.mn.us

-
- * Questions must be submitted in writing no later than October 14, 2011.
 - ** Date my change if EDA and subcommittee request additional information from finalists before making final selection.

EAST BETHEL PLANNING COMMISSION MEETING

August 23, 2011

The East Bethel Planning Commission met on August 23, 2011 at 7:00 P.M for their regular meeting at City Hall.

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

MEMBERS ABSENT: None

ALSO PRESENT: Stephanie Hanson, City Planner

Adopt Agenda Chairperson Terry called the August 23, 2011 meeting to order at 7:00 P.M.

Bonin motioned to adopt the August 23, 2011 agenda. Bonin seconded; all in favor, motion carries.

Commission Member Appointment/Oath of Office I, Lou Cornicelli, do solemnly swear to 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, Tanner Balfany, do solemnly swear to 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, Joe Pelawa, do solemnly swear to 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.

This was originally put in the paper as a public hearing, and with the City Attorney and staff. We pulled the public hearing and want to get input on what we are working on.

Section 4-10. Variances:

During the 2011 Minnesota Legislative session, the legislature enacted a change to MN Statutes section 394.27, subdivision 7. Variances. The proposed changes to section 4-10. Variances of the East Bethel City Code Appendix A. Zoning reflects the changes to MN Statutes.

The change is only to reflect MN Statutes, no staff changes.

Section 42. Rural Residential (RR) District:

On May 17, 2011, City Council held a Comprehensive Plan review session. As part of the review session, staff and council members discussed rural residential (RR) zoning district requirements. Side yard and rear yard setbacks are twenty-five (25) feet. Although the setback works for larger lots, staff has encountered issues on RR lots that are smaller in size. There are a few developments where the lots are less than 1.5 acres in size in which property owners wanted to construct additions to an existing structure or wanted to construct a new detached accessory structure but were unable to because the twenty-five (25) foot setback could not be met. These are in the older developments or Hidden Haven development. Possibly in other areas, you have to have to primary septic systems and secondary septic systems. This would only affect about 3 subdivisions.

Typical reasons why the setback could not be met include the location of existing wetlands or existing and secondary sites for individual subsurface treatment systems. Also, most principal structures on the smaller lots are built at a ten (10) foot setback.

City Council directed staff to address this particular issue. The attached amendments have been reviewed by the City Attorney, Mark Vierling. Mr. Vierling stated that if staff is going to determine the eligibility of a reduced setback, then the code will also need to have standards to reference to ensure the code is applied equally to each situation. Staff and the City Attorney are in the process of developing standards.

Voltin said a big neighborhood would be Coon Lake Beach. Hanson said no, that area is zoned differently. He said well in 2005 he had to pay to get a variance for a principal residence. Hanson said today it is 25 feet from rear and 10 feet from side. Balfany asked if it would be changed 10 feet from the rear too in Coon Lake Beach. Hanson said no, detached can be 10 feet from the side and rear, and principal are different than that. Balfany said the lots in his neighborhood are narrow. Voltin said the City of Anoka allows detached structures to be 5 feet from the back and the side. He said he was just in their City to apply for permit. He would be in favor of a 5-foot setback. Pelawa was wondering if this could be applied to all lots that are under 1½ acres. Hanson advised R1 and R2 is already a 10-foot setback. Balfany said only lots prior to 2007. Hanson stated since 2007 the lots have been 2½ acres.

Bonin was wondering why the objection for the 2-story garages. Hanson said it was a general thing. Bonin said that she thinks that they should be looked at differently based on the area. Balfany asked about 10-foot sidewall and height. Hanson said that is about detached structures. Cornicelli said it says "and/or," which one is it? She said it hasn't been decided. Bonin wondered if the detached could be taller than the principal structure. Hanson said no. Balfany asked if that was stringent. If there is a smaller house, and someone wants a garage, their house might be smaller than the garage. Bonin doesn't think that the house should be smaller than the garage. Hanson said prior to her coming here, they used to allow a garage on a property across the street from the principal structure. There are little situations that are different whereby these rules wouldn't apply.

Such as the smaller houses in Balfany's neighborhood.

Voltin wondered about the Rural Residential District. What is it? Hanson said it is 2 acres plus. Voltin said we are talking about changing the Rural Residential to a setback of 10 feet and it would not be applied to every lot out there. Hanson said there would be three small developments that it would pertain to. The City has always had the Rural Residential designation in the City. The Rural Residential lots generally are larger lots. Pelawa said this is to offset the people who come in to ask for a variance. They would just have to go through the planning process, versus getting a variance.

Voltin was concerned this would also allow these rules for Coon Lake Beach. Hanson said no, this is just for RR, not R1. The principal structures 10 feet on side and 25 feet in the rear. The detached structure is different. Pelawa said a lot of the setbacks changed in 2007 or about there. Hanson said there weren't any really changed since 2007. Pelawa said maybe in the 1990's. Bonin said just because something is the way it was, doesn't mean that it should stay that way.

Cornicelli said should the acreage be more specific. Hanson said some are 1/2 acre, some .8 acres, some are 1.4 acres. Voltin was wondering if this was a Planned Unit Development. Hanson said no. Bonin said sometimes the original decision should stand, and that standard should be adhered to. There has to be a good reason for the City at large, not for one person. Balfany said if there are enough people asking for variances, then we should review it. Bonin said it doesn't matter about the people asking for variances. We need to consider the original intent. What they moved out there for originally. Just because a certain number of people want something, doesn't mean it should be changed. Bonin said it should be open for consideration.

Balfany said about exceeding the height, a lot that may have some grading, the house is built on the hill. If they wanted to get a bigger garage, but the house was on a hill, does it need to be shorter than the primary residence? How is this measured? It is the measured height, not the sea level height. Hanson said it is always the measured height. Terry said that seems to be counter to doing that. Why would it matter then in the case of the change of grade? The standard needs to have a reason behind it. The sidewall height will still be 10 feet, per Balfany. Pelawa said from an architectural standpoint you don't want a huge garage and small house. Bonin said the garage cannot be higher elevation than the house. If it is lower down, it is still not a higher elevation. She said we are concerned with the way it looks. We don't have to stick to this rule, because that is what we said. Balfany said he is not in favor of one or the other. He is just trying to show the different discussion. The language should address the appearance of the garage being lower than the house. That is the criteria for the appearance. The size of the structure is going to determine the pitch.

Pelawa was wondering, the size of the garage, is it predicated on the size of the house. Hanson said no, that is based on the size of the lot. Hanson said staff has been working with the City Attorney on this. We need to develop standards so it is applied evenly, so it is applied across the board, and so it can easily apply to all the lots.

Section 56. Planned Unit Developments (PUD):

The purpose of a Planned Unit Development (PUD) is to allow flexibility and variation for ordinance standards in exchange for higher standards of development design, architectural control, etc. PUDs are also intended to promote the efficient use of land and promote cost-effective public and private infrastructure.

Staff is proposing changes to Section 56. Planned Unit Developments (PUD). These changes would require a PUD in R-2 and all commercial districts, and would allow PUDs as an option in the other districts. Staff's intention is to allow for flexibility and higher design standards in the future sewer/water areas along the Highway 65 corridor.

Hanson said you would have to have at least 3 acres. Terry said you are requiring it. Hanson said you could apply it as a PUD or as a regular 2-acre development. Terry said could someone build a townhome in a 3 acre lot. Hanson said yes, and she sees what he is referring to. Hanson will work on the language.

Other Possible Amendment:

Staff would like to discuss with Planning Commission the possibility of amending Section 28. Architectural Standards. This section addresses architectural standards for each zoning district except for R1 – Single-Family. Staff recommends creating architectural standards in the R1 District to ensure uniqueness in new single family developments. Staff will have some examples available at the Planning Commission meeting.

Staff is considering an amendment to Section 49. City Center (CC) District. Staff is proposing to add language to address architectural content. The intent of the language is to develop a uniform image and identity for the City Center area, utilizing similar architectural features for building design within each quadrant of the district. The design controls are also intended to discourage short-lived, trendy styles and design motifs.

Hanson said similar requirements are in place for townhomes, but not in the R1 District. Hanson said R1 is single family homes and higher density. This would be an area with sewer and water, smaller urban lots. Mundle said there aren't any architectural standards for R1. Hanson said no, currently they could build the same exact house through the development and staff has concerns with this. Before Planning Commission only addressed townhomes.

Mundle asked if St. Francis, Isanti or Cambridge have these requirements. Hanson said, "I don't know." Mundle said not to make anything too costly, since those three cities are the main competition. He doesn't want to see the City lose housing to competition. Pelawa asked what the downside is if the houses are the same. Hanson said you can't say there is a downfall. Pelawa said what are we trying to accomplish. Hanson said what the vision of the area is.

Balfany said if you take Hanson and County Road 242 as an example. They are

all the same modified 2 stories, but there are slight differences to make it attractive. If we start handcuffing them on certain things we will lose potential builders. Hanson said in places like Andover you can't build the same house side by side. You can make things different on the outside to make it look different than your neighbors.

Voltin said isn't the area we are talking about normally for first-time homebuyers. Pelawa said the area that he is talking about in Coon Rapids they have a lot of the same houses. Bonin said she doesn't think that is the case now. They want to make life simpler for them and they might not be first time homeowners. Pelawa said we are looking at cookie cutter housing in the R1. Terry said the differences don't have to be elaborate. Mundle said minimal changes won't increase the price. Hanson said if you would like to direct staff to put something together. Pelawa said just north of the courthouse in Cambridge, he thinks of that area during this discussion. There is a lot of variation of the houses.

Terry said are we in a big hurry and do we need to cheapen the way our City looks. What is not sellable about having your house distinguished from the house next to yours, other than just your house number? Voltin said he doesn't think we should regulate it. Bonin said the developer is concerned with bottom line; they don't have to live there. Pelawa said this is individual houses. Some people can put on brick, steel siding, etc. He would hate so many restrictions. Mundle said I think we are just going for some simple guidelines.

Hanson asked the Commission to request staff review and provide a recommendation for the next meeting. Balfany said what language is out there. Bonin said one thing you should look at is what works with the environment. So we are thinking about things that make the houses cost less to heat, more comfortable to live in, etc. She doesn't think these things have been in discussions in the past.

Hanson said there is one other area to look at – Section 49 in the City Center District that would address architectural content. The intent would give a unified identity. This would utilize design for each quadrant. We will not be putting in 50% brick, and we will give that to Planning Commission to review.

Staff will bring something back to the September meeting, and plan for a public hearing in October.

**Approve July 26,
2011 Planning
Commission Meeting
Minutes**

Terry had two changes to the minutes: On Page 7, the middle paragraph, third line, "Terry said that is future water treatment expansion." Change to "Terry said that it might be for water treatment building expansion" and also on Page 8, second paragraph, he would like to add to the second paragraph, "he doesn't want to go through all 16 pages of the minutes and make sense of them." Mundle had a change on page three, second to last paragraph last sentence change to "Mundle said Is Mister Roth here?"

Terry motioned to approve the minutes with said changes. Voltin seconded; all in favor, motion carries.

Adjourn

Terry made a motion to adjourn the meeting at 7:58 PM. Balfany seconded; all in favor, motion carries.

Submitted by:

Jill Teetzel
Recording Secretary

DRAFT



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 7.0 B.1

Agenda Item:

Planning Commission Meeting Minutes for August 23, 2011.

Requested Action:

Information Only

Background Information:

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

Fiscal Impact:

None

Recommendation(s):

Information Only

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required: X

EAST BETHEL PARKS COMMISSION MEETING

August 10, 2011

The East Bethel Parks Commission met on August 10, 2011 at 7:02 P.M at the East Bethel City Hall for their regular monthly meeting.

MEMBERS PRESENT: Kenneth Langmade Sue Jefferson Dan Butler Tim Hoffman

MEMBERS EXCUSED: Denise Lachinski Dan Kretchmar Bonnie Harvey

ALSO PRESENT: Jack Davis, City Administrator
Nate Ayshford, Public Works Manager

Adopt
Agenda

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

Approve –
July 13, 2011
Meeting
Minutes

Langmade had a question on the first page regarding the sentence that states Eveleth park has about 1 inch of lake frontage. Davis said it should be one foot. It is very narrow, so it is a very short distance. Hoffman said it depends on how high the water it is. Davis said it probably closer to a foot.

Butler commented on the traffic on Klondike, the minutes reflect there is 400 cars traveling the road daily when there is shooting. He knows there typically isn't that much. Davis said that is what the traffic count shows is an increase by 400 cars a day when they have shooting. Butler said it can't be that much. He knows that people carpool. If everyone drove individually, and the help, the thinks at the maximum there would be 100 cars on Monday night. He thinks the number is an older number. Davis said that is something they could check out and get corrected.

Hoffman made a motion to approve the July 13, 2011 minutes as amended. Butler seconded; all in favor, motion carries unanimously.

Parks
Financial
Information –
Parks Capital
Funds
Summary

Davis said if there are no questions, he has one thing he would like to point out. Park Capital Fund shows a balance of \$58,000. That doesn't include an expenditure of \$33,000. The current balance is about \$25,000. The expenditure was for mulch, and edging for some of the parks. Butler said is that expenditure outlined in the current month to date. Davis said no it is not from our general operating budget.

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

**Booster Park
School
Building**

The school building at Booster East Park was moved from its previous location on East Bethel Blvd to Booster East Park in September 2011. 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.

Currently there is \$850 in donations toward the project that Butler has received. He is still waiting to hear from Blaine Youth Hockey to find out if they would donate, since they have gambling in East Bethel. He has contacted them again, but they have not made a decision yet on it. He has talked to the manager from the Menards in Cambridge and they are still waiting to hear from Corporate office to see if they can participate in the local endeavor. He has a number of other businesses he is still looking for donations from. Langmade said there was a really nice write up in the Anoka Union. Davis said what we really need to determine what we are going to do with 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

Davis advised the City currently has two eagle scouts who are looking for leadership projects. The Booster East School House could provide a location to complete these projects as well as provide additional money and labor towards the renovation. There probably isn't anything they can do on the building because it will take too much supervision. We would like to get new doors, windows, roof, siding replaced and some skirting done before winter. We would like the doors to be some period style doors. Davis said that Kretchar said the floor was in bad shape, but there is only a 2 foot square that isn't good. That is the only portion of the floor that needs immediate repair. Jefferson said when we looked at it, underneath the walls; there are some great big beams that go through it. She wants to make sure it is sound before there is any work done on it.

Butler said he talked with Hagen about the building. He asked him what the use of the building would be. Butler asked Lawrence what the Council thought. Lawrence said he thinks Council said this will be at the Parks Commission for a while. Lawrence said Council Boyer would be good at helping on this. He said for using for it as an interpretive center or historic center, he doesn't have an opinion on it at this point. Lawrence said he thought Boyer's focus was to restore it as a one-room school house.

Ayshford said he got a recommendation of a building in Cambridge that does a reenactment of a school house. Butler said that is what they do at the building down in Falcon Heights. Langmade said they had some pictures that were displayed at Booster Days from the early days in the school house. He received the pictures after Booster Days, and provided them to the City. He did ask the older seniors at the Senior Meeting and there were a lot of people who were quite interested. Butler said we spent \$21,000 to move it there, so we don't want it just to have it sit there and de. Hoffman said some of the work doesn't matter what we do with it, we need to get some of the maintenance done so it doesn't rot away. Lawrence recommended talking to Crash Toys about possibly donating to this project.

Jefferson asked how much money do we have to raise. Davis said once we determine the use for the building we can figure out the overall costs. Currently we have \$850 to go toward this project. Davis said it doesn't need a full new roof, just patch work. We have the one end that was attached to the other building, so we need to get that one area sided. Lawrence said could we get some estimates to get the work done. Davis said we can list out the costs, doors, windows, steps, skirting and siding. Those are the first essential steps that need to get done. That will also give us a better target on what needs to be done. Lawrence said we can also talk to local contractors to see if they would be willing to do the work, or donate items. Butler said if we had a better idea on costs and plan on how we want the building to look like.

Jefferson said do you think we could get the old pictures on the City website. Davis said that could be done. We then could get it out on the website for ideas on what to do with the building. The newsletter will be coming out in September, and we can have this as an article in the newsletter and we can provide a place where they can contact us on what they would like to see done with the building. Jefferson said maybe it can be on the first page of the website. Davis said we can meet with Wendy to see what we can do to get some of it on the website. Butler asked how many people are on the email list to get information on the meetings. Davis said it is about 100 people.

Jefferson said she doesn't need minutes sent to her for the City Council meeting. Davis said they have been talking about not mailing the City Council minutes, but there are still some people who don't have email. Also some people do prefer the hard copies too. Ultimately that is the wave of the future, sooner rather than later.

Davis said him and Nate can get together and figure out costs and bring it back at the next meeting. Then to provide basic targets for fundraising. Then we can get the building secured and protected from the elements. Hoffman said that is probably the most important. Butler said the amount that was originally thought that needed to be raised was about \$2,500. If we need staff to do on the building, we will figure that out. If we talk to Classic and Cemstone to do the steps is a great idea. Butler said there are so many moving parts here.

Is the height a big issue? Davis said it is about 2 to 3 feet above grade. Langmade said old school houses did sit that height. Davis said the most cost effective thing is to put some siding around the bottom area.

Langmade said there was a person who would make sure we had steps the Friday before Booster Days.

The issue with the height is we will need to make the building handicap accessible. The first step is we have to determine what the cost of lowering it is.

Butler asked if anyone knows people with Blaine Youth Hockey, he would appreciate the help talking with them.

Parks Tour On July 13, 2011, Park Commission members toured some of East Bethel's lesser used parks to determine future management plans, possible consolidation or reduction in play equipment and maintained areas, and park improvements.

The parks being discussed include:

- Hidden Haven Park
- Whispering Oaks Park
- Deerwood Park
- Carlisle Park
- Anderson Lakes Park
- Bonde Park
- Northern Boundries Park
- John Anderson Park

Hoffman said Deerwood would be the one he would recommend to go natural. If you mow up around the shelter and if we do anything this would be a good one as a pilot program. Davis said what we would do is maintain the playground and shelter area, and let the rest go natural. The remainder of it is used so infrequently. The backstop should be left for the time being. Davis's agrees with Hoffman and would recommend using Deerwood as a pilot program.

Davis said Northern Boundries has about 60% left as a natural state. Hoffman said it would be a great idea to do something similar with Deerwood.

At Anderson Lakes Park has been vandalized with a lot of graffiti on the equipment. It is very offensive, but it will make the playground equipment not look so nice, and also will need to be sanded down. Staff will check that one for when it is suppose to be replaced. We need to do something to figure out who is causing the issue. Hopefully the vandalism stops. There has only been one incident at Booster West this year, same with Booster East. This might be related to a particular age group of kids in the area. For the issue we had at Booster West, we found out who did it via Facebook.

Butler said he is seeing people who are using Anderson Lake Park of late. People can actually walk to the park now, due to the change in Durant. Langmade said there were a lot of people out tonight riding bikes and walking on the shoulder.

If it meets with the Parks Commission approval, Deerwood will be used as a pilot program and we can evaluate others after the program is underway.

Hoffman recommended directing staff to undergo a maintenance reduction at Deerwood Park, only maintain the active areas, and let the back part of the property grow natural; mow some walking paths through the Park. Staff then can report back in on how the pilot program goes sometime next year.

Lawrence was wondering what the cost savings would be. Davis said he is unsure what the savings would be, especially for just one park. We didn't run any numbers as what the savings would be. The majority of the costs would be labor costs. Some of the parks are under utilized, so take the labor away from those parks and put their labor toward parks that need are utilized.

Butler said you could use survey monkey, for about \$30, to send out a five question survey to residents on what they think they would like to have their parks provide for them in the City of East Bethel. You could also put a link to the survey on the website. Lawrence said since we only have 100 people on our email list, we could also put information on our billboard. Davis said our billboard sign is limited to the amount of words we can put up.

Jefferson asked if you were looking to reduce maintenance in another park. Davis said he just wanted to start with Deerwood. Maybe we could let portions of Bonde grow up, but at this point, we will start with Deerwood. Bonde is used more for a driving range for golf than as a softball field. Davis said we haven't had any problems. Butler said Eveleth is one you could cut back on. Davis said we had a Parks meeting there last year there. There was some interest in a walking park there. Butler said we also talked about putting a walkway out into the lake. Davis said the field area is very small, it is about 200 x 200, and it is only about an acre. It is still in the middle of a residential neighborhood. We might want to consider removing a part of a fence on the backstop. Initially let's start with Deerwood and see how that works and then take a look at the others.

Seconded by Jefferson; all in favor, motion carries (Butler opposed).

Council
Report &
Other
Business

Ayshford advised a resident that lives on Coopers Lake has contacted the DNR to get the lake changed to motorized use. The DNR responded that the City has an ordinance on no motorized boats on the lake. The lake is about 80 acres. Jefferson said it goes from the Park to the Highway correct. Davis said correct. Apparently the City put into place an ordinance years ago because the lake was used a lot by swimmers. The lake is very shallow. At this time, we have had one resident inquiring about getting the ban lifted.

Butler asked was there a reason why they wanted to get motors. Butler said he could see using an electric motor on the lake. You wouldn't need to be jet skiing or boating on a ski boat on the lake. Davis said you could have walked across it last year and not got your knees wet. Butler asked for more information, before making a decision. Hoffman said it doesn't take much to get across the lake canoeing. Nate will do some more research on it.

We have some quotes for tennis nets for up at Coon Lake beach, as well as striping the concrete. We will be doing some edging and mulch over the course of the next couple of weeks. We also have two young men looking for some Eagle Scout projects. One of the projects we thought of, is we might have them does some of the edging and mulch on some of the smaller parks. If you have any other ideas for Eagle Scout projects for them, let Nate know. Anything with the old school building will take too much time to accomplish. Both of these young men have to have something done by the end of the year.

Council
Report &
Other
Business

We also need to have their troop determine if the project would qualify. Some of the past projects are tree planting projects, wood duck houses, benches. Over the years we have tried to work with the Scouts to give them projects. It is good public relations and good for the kids.

It was discussed that some of the parks don't have areas for the parents to sit, and Ayshford is looking at getting some benches in the park. Jefferson said could they do a beautification project. They could possible do a flower garden, but the downside is it creates a lot more maintenance for public works.

Adjourn

Hoffman made a motion to adjourn the August 10, 2011 meeting at 8:12 p.m. Jefferson seconded; all in favor, motion carries.

Submitted by:
Jill Teetzel
Recording Secretary

DRAFT



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 7.0 C.1

Agenda Item:

Park Commission Meeting Minutes for August 10, 2011.

Requested Action:

Information Only

Background Information:

Information Only. These minutes are in draft form. They have not 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



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 8.0 G.1

Agenda Item:

BDM Compensation Claim

Requested Action:

Council is requested to consider a claim of SAC connection fee overpayment by BDM Construction to the City of East Bethel

Background Information:

Brian Mundle and the City of East Bethel entered into a purchase agreement on January 8, 2004 in which the City sold 75 acres of the property now know as Whispering Aspen to Mr. Mundle. As part of that agreement a fee was established for SAC (\$6,000) and WAC (\$500) charges for connection charges for each lot that is developed. The agreement further states that the contract may be amended only by a written instrument executed by both the City and Mr. Mundle.

The City raised the SAC fees for the Whispering Aspen Development in 2006 to cover the costs associated with the acquisition of the Castle Towers Sewer Treatment Plant. The SAC fees were raised from \$6,000 as specified in the Purchase Agreement to \$10,250 per Resolution 2006-48 as adopted on September 6, 2006 by City Council.

Mr. Mundle contends that this change in fees is not valid as he did not consent to the increase. Mr. Mundle also contends that he paid seven SAC fees based on the 2006 rate adopted by Council, under protest, and this resulted in an overcharge of \$29,435 in connection fees. Staff has verified that Mr. Mundle paid the \$10,250 SAC charges per lot for the seven properties in dispute.

The City Attorney has reviewed this issue and in his opinion the SAC fees (\$6,000) as set forth in the 2004 Amended and Restated Purchase Agreement “have application until and unless the wastewater treatment plant at the Castle Towers facility is decommissioned.”

Attached is the 2004 Amended and Restated Purchase Agreement which outlines the terms of the origination of the \$6,000 SAC fee, Ordinance 2006-48 which changes the SAC fee to \$10,250, correspondence from Mr. Mundle and his attorney indicating opposition to the City Council’s passage of new SAC fee, and letters from the City Attorney advising that 2004 SAC rates are the valid basis for charges up and until the time the wastewater treatment plant is decommissioned.

Mr. Mundle is also seeking interest charges on the overpayment claim of \$10,689.90 or a total of \$40,124.90 as repayment from the City. Mayor Richard Lawrence, Council Member Bob

DeRoche and staff met with Mr. Mundle on Monday, September 12, 2011 and advised Mr. Mundle that the City did not pay interest on funds that are escrowed. Mr. Mundle's overpayment was initially put into a SAC fund but these monies were eventually used to pay off a portion of the sewer indebtedness for Whispering Aspen/Castle Towers.

Mr. Mundle has indicated that he would consider negotiating SAC and WAC credits for future development for his claim.

Attachment(s):

Amended and Restated Purchase Agreement
Ordinance 2006-48
Correspondence from Mr. Mundle
City Attorney Recommendations
Overcharge claim by Brian Mundle

Fiscal Impact:

As noted above

Recommendation(s):

Staff is recommending that Mr. Mundle be issued a credit for \$29,435.00 for future Whispering Aspen City SAC and WAC fees based on the overpayment as listed in the attachment. This recommendation includes no credit for any interest on the compensation claim or any credit for MCES sewer availability charges that may be applicable at any time in the future.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

AMENDED AND RESTATED
PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (hereinafter referred to as "Contract", "Agreement", and/or "Purchase Agreement") is entered into effective the 8th day of January, 2004, by and between the City of East Bethel (hereinafter referred to as "Seller"), whose postal address for purposes of this Contract is 2241 - 221st Avenue N.E., East Bethel, MN 55011, and Firebird Land, LLC, or its assigns (hereinafter referred to as "Purchaser"), whose postal address for the purposes of this Contract is 4091 County Rd. 5 N.E., Isanti, MN 55040.

WHEREAS, Seller is the owner of the real property legally described on Exhibit "A" attached hereto and incorporated herein; and

WHEREAS, Purchaser wishes to purchase approximately 75 acres of real property legally described on Exhibit "A" and develop the same as single-family residences (with some commercial) (hereinafter referred to as "Lot" or "Lots") and Seller wishes to sell the same to Purchaser upon the terms and conditions stated herein.

NOW, THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I
Purchase and Sale

1.1 For and in consideration of the undertakings, and mutual covenants of the parties set forth herein, Seller hereby agrees to sell and convey to Purchaser and Purchaser hereby agrees to buy and pay for the following:

- (a) The real property legally described on Exhibit "A" situated in Anoka County, Minnesota, together with all and singular the rights and appurtenances pertaining to such Real Property, including any right, title and interest of Seller in and to easements, water and sanitary sewer and storm sewer rights (hereinafter referred to as the "Property").
- (b) City shall make an effort to resolve with owner of adjacent property that will involve no more than 25 feet into Exhibit "A", and new survey work shall be completed and legal description to be re-written.

1.2 The legal description on Exhibit "A" is based upon the legal description for the Property at the courthouse. The precise legal description shall be based upon deeds and title certificates of record with the County Recorder and/or Registrar of Titles.

1.3. The Seller shall install a fence at Purchaser's expense between Minard Lake Estates and Castle Towers and Highway 65. This fence shall be of the same type and size as the fence that surrounds the remaining perimeter of the Property.

1.4 The Seller will resurface, retrofit and reconstruct existing streets within Phase I of Minard Lake Estates, at the expense of the Purchaser, or its successor(s) in title, as hereinafter set forth. The scope of this work is set forth in the Pavement Evaluation Report For Minard Lake Estates by Hakanson Anderson Associates, Inc. dated January 29, 2002, Table One, which is

incorporated herein by reference. The Purchaser, and/or its successor(s) in title, will pay for this work as follows:

- (a) at the time each building permit for a new home within the Property is issued, the amount of \$2,000.00, in addition to the building permit fees, will be collected by the Seller from the owner of the Property for which the permit is issued.
- (b) Each \$2,000.00 amount collected will be deposited into an interest bearing account for the resurfacing, retrofitting and reconstruction of existing streets in Phase I of Minard Lake Estates in accordance with the Hakanson Anderson Associates, Inc. Report.
- (c) Funds for repair work pursuant to ARTICLE IV, paragraph 4.1(j) of this agreement will be added to this account.
- (d) Excess funds will be returned to Firebird Land LLC when final resurfacing is completed.
- (e) The timing of this work will be pursuant to the Schedule of Improvements in the Hakanson Anderson Associates, Inc. Report, but the Seller will have absolute discretion as to the specific date of commencement of any part of the work (so long as performance of the work does not unreasonably interfere with the Purchaser's intended use of the Property). If on the date of commencement of any part of the work, in the City Engineer's estimation there are not sufficient funds in the account established pursuant to this paragraph 1.4 to cover the cost of that part of the work, then the Purchaser will deposit additional funds in the account to cover any such deficiency. Any such deposit will be offset against the \$2,000.00 amounts to be collected at the time building permits are issued.

ARTICLE II Purchase Price

2.1 All of the Property, identified in Paragraph 1, above, Seller has this day sold to Purchaser for the sum of One Million Seven Hundred Thousand and No/100 Dollars (\$1,700,000.00) (the "Purchase Price") and upon the terms hereinafter specified:

- (a) \$125,000.00 Earnest Money shall be paid, the receipt and sufficiency of which is acknowledged by Seller, and shall serve as consideration for this Agreement. This Earnest Money shall be deposited in an interest-bearing account and Purchaser shall receive this interest.
- (b) \$1,575,000.00 By Purchaser receiving, on or before the Closing Date, a commitment acceptable to Purchaser for the proceeds of financing necessary and sufficient in Purchaser's opinion to implement Purchaser's plans for and complete the purchase of the Property. See Exhibit "B" attached hereto and made a part hereof.

ARTICLE III Covenants, Agreements and Possession

3.1 Seller hereby covenants and agrees with Purchaser as follows:

(a) Seller agrees to permit Purchaser, at Purchaser's sole cost and expense, at any time prior to the Closing Date, through its employees and representatives, to conduct such investigations and examinations of the Real Property as it deems necessary or advisable. Such investigation may include, but is not limited to, surveying, soil testing, hazardous waste testing, and other various studies.

3.2 Possession of the Property shall be delivered to Purchaser on the Date of Closing provided, however:

(a) Purchaser and Purchaser's employees, agents and representatives shall have the right to enter on the Real Property before the Date of Closing for the purpose of making soil tests, environmental tests, percolation tests, examining and surveying the Real Property, and preparing preliminary architectural, engineering and other plans and studies.

(b) Purchaser shall be allowed to commence construction of model homes before the Date of Closing, if all conditions have been met and waived. Purchaser shall be allowed to construct model homes after contract for deed is signed on lots needed for construction of the model homes. Purchaser shall post a notice that provides that the Seller is not responsible for construction costs and to look to Purchaser for payment of all improvements. Purchaser shall provide line of credit information in the amount of 150% of actual construction costs of each unit built prior to construction.

3.3 In the event Purchaser enters into possession prior to Closing for the purposes specified above, Purchaser agrees to indemnify and hold Seller harmless from all costs, damages and expenses (including reasonable attorney's fees) arising out of entry on the Property by Purchaser, its employees, agents and contractors, including, but not limited to liabilities, costs, damages and expenses arising out of personal injury, death or property damage, the filing of any lien against the Property, or the release or threatened release of any pollutants, contaminant or hazardous waste in connection with Purchaser's entry.

3.4 Seller hereby covenants and agrees that Seller will cooperate with Purchaser in the preparation, execution, and prosecution of applications for necessary development agreements, conditional use permits, variances, plats, building permits, environmental permits, wetland permits, and all other necessary permits for the development of the Real Property as Purchaser may determine to be necessary or as required of Purchaser by applicable governmental units to enable Purchaser to put the Real Property to the intended use. All expenses in order to develop the Real Property shall be paid for by the Purchaser.

ARTICLE IV

Representations and Warranties of Seller and Purchaser

4.1 Seller represents and warrants to Purchaser as follows:

- (a) This Agreement is valid and binding upon Seller in accordance with its terms.
- (b) Seller has the authority and power to enter into this Agreement and to consummate the transaction contemplated hereby, and neither the execution or delivery of this Agreement by Seller nor its performance by Seller will conflict with or result in a violation or breach of any law, regulation, order, writ, or injunction of any court or governmental agency, applicable to Seller or to the Real Property nor of any term, condition, or any indenture, or other contract or agreement to which Seller is a party nor cause a default thereunder nor result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever on the Real Property pursuant to the terms of any such agreement.
- (c) That Seller will convey good and marketable fee simple title to the Real Property, free and clear of any and all liens, mortgages, pledges, security interests, leases, charges, encumbrances, easements, joint ownerships, or restrictions of any kind.
- (d) To the best of Seller's actual knowledge, with no duty to investigate, the Real Property does not currently violate any federal, state, local or other governmental building, zoning, health, safety, platting, land use, environmental, subdivision or other law, ordinance or regulation, or any applicable private restrictions in a manner which would prevent development of the Real Property for single family residences. No written or oral notice of the violation of any of said laws, ordinances, regulations or restrictions has been received by Seller.
- (e) No portion of the Real Property is subject to any leasehold interest nor are there any existing contracts or agreements affecting the Real Property.
- (f) To the best of Seller's knowledge, with no duty to investigate, there is no significant deposit of hazardous substance, as defined in Minn. Stat. Section 115B.02, Subd. 8, located anywhere in or on the Real Property, nor contamination of ground water under the Real Property, including any facility, as defined in Minn. Stat. Section 115B.02, Subd. 5, that is located in or on the Real Property or in conjunction with any improvements to the Real Property.
- (g) There are no private restrictions which effect the use of the Real Property, including, but not limited to: size or cost of buildings or structures; limitations on use or restriction in regard to fences, roofs, garages, and heights of buildings or structures; agreements to submit architectural plans to an association or other group; provisions requiring improvements; or provisions requiring the joining of others in group actions.
- (h) To the best of Seller's actual knowledge, with no duty to investigate, there are no private wells or individual sewage treatment systems located on or about the Real Property, except as noted on the attached Well and Septic Disclosures.
- (i) The Seller shall hold Purchaser harmless from all costs relating to the original development of the Real Property for any and all pollution or environmental issues, including, but not limited to, storm water runoff from the pond on the Property (any additional ponding or piping for storm water runoff will be paid for by Seller). Any ponding or retrofitting of storm water system in entire Property

shall be Sellers cost. Any new piping of storm water system in any new phase of development within the Property shall be the Purchasers cost.

- (j) Since the Property is subject to a bond obligation of the City of East Bethel (Seller), which cannot be paid off in full, but must be paid annually, the Seller will deposit the entire Purchase Price of \$1,700,000.00 into an interest-bearing account designed to pay down this bond. The interest from this escrow account shall be used to effect repairs to the streets, curbs, sewer and/or water within the Property. The escrow will be released to the Seller when the bonds have been paid in full and the Property released from same.
 - (k) The Seller agrees not to require a letter of credit or bond from the Purchaser for platting and installation of any improvements to the Property. No park dedication fee shall be required of Purchaser in the platting process, since parks are already included in the project.
 - (l) The Seller will provide to Purchaser, as-built drawings showing the location of water and sewer stub connections.
 - (m) The second phase of this development will maintain street widths and other similar design concepts to current existing streets in first phase. This clause will survive closing.
- 4.2 Purchaser represents and warrants to Seller:
- (a) That Purchaser has the authority and power to enter into this Agreement and to consummate the transaction contemplated hereby, and neither the execution or delivery of this Agreement by Purchaser nor its performance by Purchaser will conflict with or result in a violation or breach of any law, regulation, order, writ, or injunction, of any court or governmental agency, applicable to Purchaser or to the Real Property nor of any term, condition or any indenture, mortgage, leases or other contract or agreement to which Purchaser is a party nor cause a default thereunder nor result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever on the Real Property pursuant to the terms of any such agreement.
 - (b) Purchaser shall, prior to entering into possession of the Real Property, procure and maintain at its expense, but for the mutual benefit of Seller and Purchaser general public liability insurance and hazard insurance. These insurance policies shall cover claims for personal injuries, wrongful death and property damage occurring in or on the premises sold hereby to Purchaser. Such insurance is to afford protection to a limit of not less than \$500,000.00 with respect to injuries or death to a single person; to a limit of not less than \$1,000,000.00 with respect to any one accident; and to a limit of not less than \$300,000.00 with respect to property damage.
 - (c) That Purchaser will defend and indemnify Seller from and against any and all claims, demands, causes of action, liability, injuries, damages, judgments, decrees, fines, penalties, expenses, costs and fees and attorneys' fees of

whatsoever nature arising out of or in any way connected with any act or omission of Purchaser, its agents or employees, under this Agreement with respect to the Property.

- (d) After this Purchase Agreement is consummated, Purchaser agrees to install street lighting for the Property. The cost of the operation and maintenance of street lighting shall be charged to the property owners of the plat and applied to the utility bills sent out for sewer and water charges.
- (e) Seller will retain ownership of streets, curbs, sidewalks, potable water system to curb stop, sanitary sewer system to water curb stop, storm sewer, and Outlots A, B, C, D, as designated on Preliminary Plat of Whispering Aspen dated October 13, 2003, (Exhibit C). City of East Bethel shall have incidental use of the Community Center and the exclusive use of one of the offices, but other use of the Community Center will be primarily for the residents of Whispering Aspen Plat. The Purchaser shall have use of office space in the Community Center until the Whispering Aspen plat is completed.

ARTICLE V Title Examination

5.1 Within a reasonable time after acceptance of this Agreement, Seller shall provide to Purchaser an Abstract of Title to the Property certified to date, including proper searches covering bankruptcies, state and federal judgments and liens, and levied and pending special assessments. Purchaser shall be allowed twenty (20) days after receipt of said Abstract of Title for examination of title and the making of any objections thereto, such objections (exclusive of any of the Permitted Title Exceptions) to be made in writing or deemed to be waived. If any objections are so made, the Seller shall be allowed one hundred twenty (120) days to make such title marketable. If title is not marketable and is not made so within said time period, this Agreement shall become null and void, at the option of Purchaser, and neither party hereto shall be liable for damages hereunder to the other party. All Earnest Money previously paid by Purchaser shall be immediately refunded. If the title to the Real Property is found marketable or is made so within said time, and said Purchaser shall default in any of the agreements and continue in default for a period of thirty (30) days, then in that case the Seller may terminate this Agreement, and on such termination the Earnest Money previously paid upon this Agreement shall be retained by the Seller as liquidated damages. Nothing contained herein shall be deemed to limit either party's ability to seek specific performance of this Agreement.

ARTICLE VI Closing

6.1 The consummation of the purchase and sale contemplated hereby (herein referred to as the "Closing") shall be held on January 23, 2004, or ten (10) days after final plat approval, whichever is later. The date and hour of Closing are herein referred to as the "Date of Closing".

- 6.2 At the Closing, the following shall occur:
 - (a) Purchaser shall deliver and/or execute the following:

- (i) The cash portion of the Purchase Price.
 - (b) Seller shall deliver to Purchaser a Warranty Deed for the Real Property fully executed and acknowledged. The Warranty Deed conveying the Real Property shall be subject to the following "Permitted Title Exceptions":
 - (i) Restrictions of use:
 - (1) Building and zoning laws, ordinances, state and federal regulations;
 - (2) Restrictions relating to use or improvements consistent with Purchaser's intended use;
 - (3) Reservation of any minerals or mineral rights to the State of Minnesota; and
 - (4) Utility, road and drainage easements which do not adversely affect the development of the Real Property.
 - (ii) Any liens, encumbrances, easements, or rights, including but not limited to, mechanic's lien rights, created, or permitted to be created by Purchaser;
 - (iii) Exceptions to title which are not found objectionable after title examination;
 - (iv) Exceptions to title which constitute encumbrances, restrictions or easements which will be removed at or prior to Closing.
 - (c) Seller shall deliver an Affidavit certifying that as of the date of Closing there are no outstanding unsatisfied judgments, tax liens or bankruptcies against or involving Seller, that there has been no skill, labor or material furnished to the Real Property by Seller for which mechanic's liens could be filed, that there are no other unrecorded interests in the Real Property of any kind, and that Seller, under the penalty of perjury, is not for federal income tax purposes, a non-resident alien, or a foreign corporation, partnership, trust or estate.
 - (d) Seller shall deliver to the Purchaser the abstract(s) of title to the Real Property purchased pursuant to the terms of this Purchase Agreement.
- 6.3 At Closing, costs associated with this Agreement shall be prorated as follows:
- (a) Seller shall pay all costs incurred in connection with abstracting. Purchaser will pay all premiums required for the issuance of any Owner's or Mortgagee's Title Insurance Commitment and Policy required by Purchaser.
 - (b) Seller shall pay all state deed tax required for the Warranty Deed to be delivered by Seller under this Agreement.
 - (c) Seller will pay the cost of recording all documents necessary to place of record title to the Real Property in the condition warranted and represented by Seller in this Agreement.

- (d) Purchaser shall pay the mortgage registration tax and the recording fees for the Warranty Deed and Mortgage.

ARTICLE VII
Taxes and Assessments

7.1 Real estate taxes due and payable in the year 2002, if any, shall be pro-rated between Seller and Purchaser as of the date of Closing based upon number of days elapsed in a calendar year commenced January 1, 2002. Special assessments certified to be paid along with the 2002 real estate taxes shall be paid by Seller.

7.2 All real estate taxes due and payable in the year following the year of Closing and thereafter shall be paid by Purchaser.

7.3 Except as provided herein, Seller shall pay all deferred real estate taxes against the Real Property up to the time of Closing. ~~Any special assessments related to Purchaser's development of the Real Property shall be paid by Purchaser.~~ Seller shall pay all levied special assessments. Seller shall pay all pending special assessments and deferred as of the date of this Agreement.

7.4 If the Real Property has been or is now valued and assessed in accordance with "Minnesota Agricultural Property Tax Law" (Green Acres), Seller agrees to pay the additional taxes when extended as specified in Minn. Stat. Section 273.111, Subd. 9, as amended. The Green Acres tax restoration for the year of Closing shall be prorated between Seller and Purchaser as of the Date of Closing.

ARTICLE VIII
Conditions

8.1 The obligation of Purchaser to consummate the transaction contemplated hereby is subject to the following conditions:

- (a) The representations and warranties made by Seller herein shall be true and correct as of the date of the execution of this Contract and as of the Closing Date with the same force and effect as though such representations and warranties had been made as of the Closing Date, and Seller shall have performed all covenants and obligations and complied with all conditions required by this Contract to be performed or complied with by Seller prior to the Closing Date.
- (b) Purchaser determining in its reasonable discretion that every governmental approval necessary for development of the Real Property for a single family residential use and commercial use according to Purchaser's proposed development plan will be obtained in a timely manner and in no event later than the Date of Closing.
- (c) Purchaser determining in its reasonable discretion that all the well water on the Property is potable per Minnesota State Statutes.

- * (d) Seller shall obtain title to wastewater treatment facility and operate this wastewater treatment facility charging a reasonable fee for operation charges for water and sewer. The Seller shall charge a water connection charge of \$500.00 per Single Family Residential lot and a sewer connection charge of \$6,000.00 per Single Family Residential lot at the time the building permit for each Single Family Residential lot is issued. Seller agrees to continue to work on wastewater treatment plant Agreement with Buyer until all issues are resolved. For all commercial lots the charge for the water and sewer will be based on the facility types on each lot. The Seller shall charge 1 (one) water and sewer connection charge of \$6500.00 per 1(one) "Service Availability Charge" (SAC). The total number of SACs for each commercial facility will be calculated based on the "Service Availability Charge Procedures Manual" dated January 2000 by the Metropolitan Council Environmental Services. Each commercial will be charged a minimum of 1 (one) SAC.
- (e) The water and sanitary sewer service to the Property shall be public service.
- (f) The City of East Bethel agreeing to rezone the Property for single-family residential and to leave as commercial zoning for the southeast section of the Property of approximately 15 to 16 acres.
- (g) Purchaser obtaining necessary financing for the purchase of the Property as described on Exhibit B attached hereto.
- (h) The Property must be realigned or replatted to allow up to 157 single family residential lots of a 10,000 sq. ft. minimum lot size; street frontage of 75 feet and up, except for cul-de-sac lots, corner lots and flag lots; set back requirements of front-28 feet, side-10 feet, rear-20 feet; the houses to be build will be wood construction with minimum foot prints of 1,100 sq. ft. for splits and ramblers and 960 sq. ft. for two stories and with three-stall garages.
- (i) The Seller will allow realignment of lot lines, and vacating streets as shown on Purchaser's Concept Plan dated October 13, 2003, without any fees for parks or other costs relating to the replatting process over the entire Property.
- (j) Johnson Street entrance to remain for commercial plat.

ARTICLE IX
Commissions

- 9.1 Seller hereby warrants to Purchaser and Purchaser hereby warrants to Seller that:
- (a) No broker's commissions, finder's fees or like charges (hereinafter collectively called a "Commission") have been incurred in connection with this transaction by the party so warranting herein;
- (b) The foregoing warranties shall survive the Closing specified, and shall inure to the benefit of the successors and assigns of Purchaser and Seller; and

- (c) Purchaser and Seller further agree to give testimony in accordance with these warranties in case any action or proceeding shall be instituted by any purported broker, licensed or otherwise, or any other person claiming a commission in connection with this transaction.

9.2 Seller and Purchaser hereby agree to indemnify and to hold each other harmless from any alleged claim for any commission that may be claimed by any third party through either of them against the other party.

ARTICLE X Termination and Remedies

10.1 Purchaser's Remedies. If Seller defaults in performing any of Seller's Closing obligations under the terms of this Contract on the Closing Date for any reason, other than Purchaser's default, Purchaser shall be entitled to terminate this Contract or to enforce specific performance of this Contract as its exclusive remedies.

10.2 Seller's Remedies. If Purchaser defaults in performing any of Purchaser's Closing obligations under the terms of this Contract on the Closing Date for any reason other than the Seller's default, Seller shall be entitled to terminate this Contract and retain the Earnest Money or to enforce specific performance of this Contract as its exclusive remedies.

ARTICLE XI Condemnation

11.1 Condemnation. If all or any portion of the Real Property is condemned prior to Closing, Seller or Purchaser may elect to do any of the following:

- (a) If the condemnation is of the fee title to a portion of the Real Property or includes a portion or interest in the Real Property, at Closing, Seller or Purchaser shall receive the condemnation award as may be paid or payable;
- (b) Cancel this Agreement and Purchaser shall receive a refund of the Earnest Money paid by Purchaser to Seller.

Seller's or Purchaser's election under this Paragraph shall be exercised by written notice to the other party given within ten (10) days after receipt of written notice from Seller of such taking or of the amount of condemnation award payable with respect to such taken, whichever notice is given later.

ARTICLE XII Miscellaneous

12.1 This Contract embodies the entire agreement between the parties and cannot be waived except by the written agreement of the parties.

12.2 The representations, warranties and covenants of Seller and Purchaser herein contained shall survive the Closing and shall not be merged into the Closing.

12.3 Any notice required or permitted hereunder shall be deposited in the United States Mail, postage prepaid, registered or certified mail, return receipt requested, addressed to Seller or Purchaser, as the case may be, at the address set forth in the first paragraph of this Contract.

12.4 The captions used in connection with the Articles of this Contract are for convenience only and shall not be deemed to construe or to limit the meaning of the language of this Contract.

* 12.5 This Contract may be amended only by a written instrument executed by Seller and Purchaser.

12.6 This Contract embodies the entire agreement between the parties with relation to the transactions contemplated hereby, and there have been and are no covenants, agreements, representations, warranties or restrictions between the parties with regard thereto other than those set forth herein or herein provided for.

12.7 This Contract may be executed in any number of counterparts, each of which shall be an original, but such counterparts together shall constitute one and the same instrument.

12.8 This Agreement shall be governed by and construed in accordance with the laws of the State of Minnesota.

IN WITNESS WHEREOF, this Contract has been signed and sealed on the day and year first above written.

SELLER:

PURCHASER:

CITY OF EAST BETHEL

FIREBIRD LAND, LLC

By [Signature]
Its Mayor 1/8/04

By [Signature]
Its President 1-8-04

By [Signature]
Its City Clerk

By _____
Its _____

**AN AMENDMENT TO THE AMENDED
AND RESTATED PURCHASE AGREEMENT**

The Amended and Restated Purchase Agreement between the City of East Bethel ("Seller") and Firebird Land, LLC ("Purchaser") effective date of 8th day of January, 2004 is further amended by the addition of the following paragraph to ARTICLE IV, 4.1 (c):

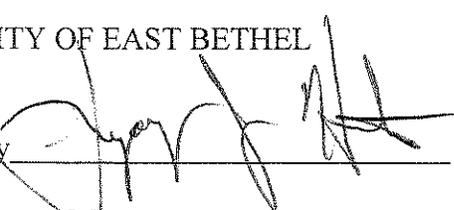
4.1 (c)

- (1) The parties acknowledge that several homes belonging to tenants of the adjacent Castle Towers Mobile Home Park encroach onto the Property along the common boundary line between the mobile home park and the Property. Seller, at its expense, the expense of the owner of the mobile home park, or Seller's and such owner's shared expense, will have the boundary line resurveyed and reconfigured in those areas where such encroachments exist so as to provide at least 25 feet of set back easterly and/or northerly, as the case may be, of the boundary line for each existing home in the mobile home park. In addition, Seller will arrange for the fence located along the boundary line to be relocated along the reconfigured line, also at Seller's expense, the expense of the owner of the mobile home park, or Seller's and such owner's shared expense. Seller will attempt to negotiate a land exchange with the owner of the mobile home park to offset the reduced area of the Property as a result of reconfiguration of the common boundary line. If a land exchange cannot be negotiated, the Purchase price for the Property will be reduced by \$10,000.00 multiplied by the number of acres or fraction of an acre by which the area of the Property is reduced as a result of reconfiguration of the boundary line.

This Amendment is effective the 8th day of January, 2004.

SELLER:

CITY OF EAST BETHEL

By 

Its Mayor

By 

Its City Clerk

PURCHASER:

FIREBIRD LAND, LLC

By 

Its President Firebird Land LLC

By _____

Its _____

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

RESOLUTION NO. 2006-48

RESOLUTION ESTABLISHING SEWER AVAILABILITY CHARGES (SAC)

WHEREAS, , Minnesota Statutes section 444.075 provides the basis for setting certain fees and charges relating to municipal utility services; and

WHEREAS, the City has determined that a Sewer Availability Charge (hereinafter SAC fee) is an appropriate charge for residents that connect to municipal utility services; and

WHEREAS, Pursuant to Ordinance 200, as amended, Resolution 2005-59 set SAC fees at \$10,205 for all units connected as of January 31, 2004, for service provided by the Waste Water Treatment Facility acquired by the City in January, 2004 (hereinafter the Facility); and

WHEREAS, SAC fees set pursuant to Resolution 2005-59 will not be increased to pay for future maintenance or replacement of the Facility for those units connected as of January, 2004; and

WHEREAS, the charge for initial connections to the Facility for properties located within the Whispering Aspen plat, filed with the Anoka County Recorder as document number 771791, is \$6,000 per connection; provided, however, that such connections, and any future connections, must provide sufficient funds to pay for the maintenance, betterment and replacement of the Facility and that increased SAC; and

WHEREAS, the City has determined that SAC fees may be increased for units connected after January 31, 2004 to pay increased costs for maintenance, betterment and replacement of the Facility; and

WHEREAS, the City has determined that expenses relating to maintenance, betterment and replacement of the waste water treatment facility will meet or exceed funds raised from the imposition of a \$4,205 charge, in addition to the \$6,000 initial connection charge, per unit not initially connected to the Facility as of January, 2004; and

WHEREAS, the City will continue to study costs for plant maintenance, betterment and replacement.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EAST BETHEL, MINNESOTA THAT: the SAC fee for each new connection to the City's municipal waste water treatment facility is hereby set at \$10,205.

Adopted this 6th day of September, 2006 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Greg Hunter, Mayor

ATTEST:

Douglas Sell, City Administrator



Doug Sell
Administrator
City of East Bethel

March 30, 2007

This letter is to inform you that I do not agree with the City of East Bethels decision to raise the SAC fee in the contract that is in effect between the city and myself. I will be paying the new SAC fee each time I pick up a permit. I would ask that the city put the excess funds over the contracted SAC fee in a separate fund. I will set up a meeting with the city in the future to discuss this issue.

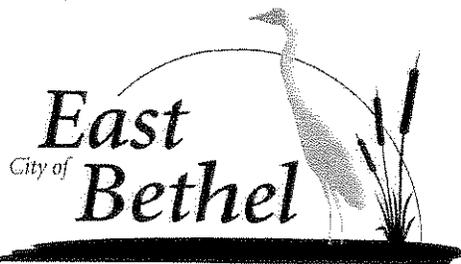


I have received this letter
Doug Sell

Thank You



Brian Mundle
BDM Construction, Inc



August 29, 2008

Mr. Brian Mundle
BDM Construction
4091 County Road 5 NE
Isanti, MN 55040

RE: SAC Fees

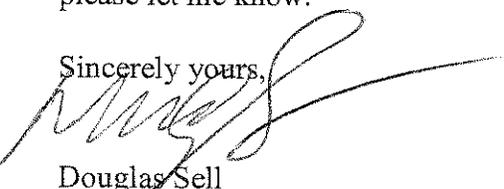
Dear Mr. Mundle;

At the work session on Thursday evening, staff asked Council how they would like to respond to your request for a meeting to discuss the SAC fee issue you have raised. Council asked if you would be agreeable to the following regarding a meeting with the City:

1. Would a meeting with two Council Members rather than the entire Council be acceptable? If the meeting was with the entire Council it would be a public meeting. Gathering the entire Council for a special meeting of this nature is extremely difficult and not practical. However, it may be more useful to meet and work with two Council Members who would or could make a recommendation to the full Council on the matter.
2. One point the Council would insist on is that the matter be revenue neutral. That is, any reduction or consideration of a reduction to the fees would have to be generated with increased fees in those areas that have yet to be platted, re-zoned or otherwise developed. The total fees generated would have to be sufficient to retire the bonds issued to acquire the plant that services the Whispering Aspen development or other development that may connect to this facility.
3. Your proposal must be written and provided at least one week in advance of any meeting.
4. Should the City Council or a committee of the Council determine that the City Attorney is to be involved; the City Attorney will be present.

If these conditions for a meeting are acceptable, please let me know and we will ensure a two member committee of the Council will be available to meet with you. If you have any questions, please let me know.

Sincerely yours,


Douglas Sell
City Administrator

OCT. 1. 2008 4:49PM

BARNA, GUZY, & STEFFEN

NO. 2156 P. 2

RICHARD A. MERRILL
DARRELL A. JENSEN
JEFFREY S. JOHNSON
RUSSELL H. CROWDER
JON P. ERICKSON
THOMAS P. MALONE
MICHAEL F. HURLEY
DOUGLAS G. SAUTER
HERMAN L. TALLE
CHARLES M. SEYKORA
DANIEL D. GANTYER, JR.
BEVERLY K. DODGE
JAMES D. HOEFT
JOAN M. QUADE
JOHN T. BUCHMAN
SCOTT M. LEPAK
STEVEN G. THORSON

BGS

Barna, Guzy & Steffen, Ltd.

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ELIZABETH A. SCHADING
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BRADLEY A. KLETSCHER
DOUGLAS J. DEHN
KRISTI R. RILEY
WILLIAM D. SIEGEL
TIMOTHY D. ERB
KAREN K. KURTH
ANGELA M. SAMEC
SUSAN E. SHEELY
ADRIEL B. VILLARREAL
KIP R. PETERSON
THOMAS J. KETTLESON
KRISTIN N. STOWELL
TAMMY J. SCHEMMELE
SUSAN E. TECT

Writer's Direct Line: (763) 783-5136
Internet E-Mail Address: djensen@bgs.com

October 1, 2008

City of East Bethel
Attention: Douglas Sell, City Administrator
2241 221st Avenue NE
East Bethel, MN 55011

RE: SAC fees/Whispering Aspen
Our File No. 51178-006

Dear Mr. Sell:

We represent Brian Mundle with respect to the SAC fee issue in Whispering Aspen subdivision.

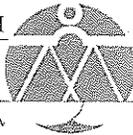
I have reviewed correspondence connected with that issue, including your email to Mr. Mundle dated September 17, 2008 and the purchase agreement between the City and Mr. Mundle.

It is my understanding that you take the position that the SAC fees should be \$11,687.00 per connection. As I read the purchase agreement, however, the sewer and water connection charge is to be \$6,500.00 per single family residential lot. Mr. Mundle indicated to you in his letter of March 30, 2007, that he did not agree with the decision to raise the SAC fees to \$10,205.00 in 2006, but did pay that amount for seven (7) lots under protest, so he could get permits, and indicated that he expected there to be a credit in the future for the excess payment. While the City generally may have the authority to change the cost of the improvements to the benefited parcels, the City may also limit that authority by contract. We believe the City has done that in this case. If you have a legal rationale for ignoring the purchase agreement, we would like to hear it.

Please contact me at your earliest convenience.

Yours truly,
BARNA, GUZY & STEFFEN, LTD.

Darrell A. Jensen
DAJ/mmk



Writer's Direct Dial:
(651) 351-2118

Writer's E-mail:
mvierling@eckberglammers.com

Stillwater Office:
1809 Northwestern Avenue
Stillwater, Minnesota 55082
(651) 439-2878
Fax (651) 439-2923

August 29, 2011

Hudson Office:
430 Second Street
Hudson, Wisconsin 54016
(715) 386-3733
Fax (715) 386-6456

Jack Davis
City of East Bethel
2241 - 221st Avenue NE
East Bethel, MN 55011

www.eckberglammers.com

Re: *Brian Mundle – BDM Construction*
Our File No.: 23746-21687

Dear Jack:

Relative to the City's agreement, contained within the Amended and Restated Purchase Agreement of January 2004, there is a provision which provides as follows:

"Seller (City) shall obtain title to wastewater treatment facility and operate this wastewater treatment facility charging a reasonable fee for operation charges for water and sewer. The Seller shall charge a water connection charge of \$500 per Single Family Residential lot, and a sewer connection charge of \$6,000 per Single Family Residential lot at the time the building permit for each Single Family Residential lot is issued. Seller agrees to continue to work on wastewater treatment plant Agreement with Buyer until all issues are resolved. For all commercial lots the charge for the water and sewer will be based on the facility types on each lot. The Seller shall charge 1 (one) water and sewer connection charge of \$6500.00 per 1 (one) "Service Availability Charge" (SAC). The total number of SACs for each commercial facility will be calculated based on the "Service Availability Charge Procedures Manual" dated January 2000 by the Metropolitan Council Environmental Services. Each commercial will be charged a minimum of 1 (one) SAC."

It is my opinion that this provision would have application until and unless the wastewater treatment plant at the Castle Towers facility is decommissioned.

If you have any further questions, please let me know.

Yours very truly,

Mark J. Vierling

MJV/ndf

Writer's Direct Dial:
(651) 351-2118

Writer's E-mail:
mvierling@eckbergammers.com

Stillwater Office:
1809 Northwestern Avenue
Stillwater, Minnesota 55082
(651) 439-2878
Fax (651) 439-2923

August 25, 2011

Hudson Office:
430 Second Street
Hudson, Wisconsin 54016
(715) 386-3733
Fax (715) 386-6456

Jack Davis
City Administrator
2241 - 221st Avenue NE
East Bethel, MN 55011

www.eckbergammers.com

Re: *Castle Tower*
Our File No.: 23746-21687

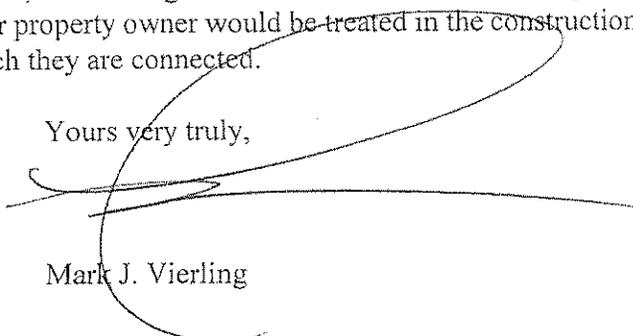
Dear Jack:

You have asked our opinion on the ability of the City to institute new charges and/or assessments to affected properties and users relative to the decommissioning of the existing sewage treatment facility. The City Engineer has opined that the Castle Towers sewage treatment plant has reached the end of its useful life, and must either be completely rebuilt or alternate disposal options need to be pursued.

Relative to the infrastructure costs that will be incurred, you have asked if those costs can be recovered by assessment to benefitted lands and properties, and/or new or adjusted user charges to those same lands, users and properties can be implemented to assist in the recapture of those new infrastructure costs.

We have reviewed the City's files relative to the transactions and litigation that was involved in the City's acquisition of this facility, and we are of the opinion that the lands and users that are served by this facility are subject to any reasonable and lawful mechanisms to facilitate the payment of the City's costs to replace the infrastructure in any one of the two options the City Engineer outlined, i.e. rebuild the plant or decommission and extend trunk lines to the Met Council system now being constructed to serve other areas within the City. In essence, the existing users of the Castle Tower Sewage Treatment Plant will be treated as any city resident or property owner would be treated in the construction of new facilities benefitting their lands or to which they are connected.

Yours very truly,



Mark J. Vierling

MJV/ndf



4091 County Road 5 NE
Isanti, Minnesota 55040
License #20630734

Aug 1st, 2011

To:
Jack Davis
City of East Bethel
2241 221st Ave NE
East Bethel, Mn. 55011

RE: Sac and Wac Fees

Jack,

After checking what I have actually paid to the city for the Sac fees the total is \$29,435.00. The address for each \$4205.00 overcharge fee is:

Added interest at 10.75% first year and 6.75% the following years to Sept 15, 2011. First year is \$2047.95, 2nd year is \$2125.10, 3rd year is \$2268.54, 4th year is \$2421.67, To Sept 15, 2011 \$1826.64. Total now is \$40,124.90.

24347 Polk Street on 4-9-07

24333 Pierce Path on 5-3-07

1080 Fillmore Circle on 4-9-07

24120 Pierce Street on 4-9-07

24282 Fillmore Circle 5-9-07

1094 244th Ave NE on 6-14-07

24159 Pierce Street on 7-2-07

I have not paid any Wac fee overcharge at this time.

Brian Mundle
President BDM Construction, Inc.
Cell 612-751-0170
Office 763-444-0296



City of East Bethel City Council Agenda Information

Date:

September 21, 2011

Agenda Item Number:

Item 9.0 C

Agenda Item:

Closed Session GRE Settlement Negotiations

Requested Action:

Consider closing the regular session for an Attorney/Client discussion regarding the GRE settlement suit.

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 a discussion of the GRE settlement suit.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____



PUBLIC FORUM SIGN UP SHEET

September 21, 2011

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

