

City of East Bethel

City Council Agenda

Regular Council Meeting – 7:30 p.m.

Date: January 6, 2010



Item

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

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

7:32 PM **3.0 Oath of Office**

Page 1-2 A. Council Member Select Steve Channer

7:35 PM **4.0 Adopt Agenda**

7:37 PM **5.0 Public Forum**

7:47 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 7-11 A. Approve Bills

Page 12-28 B. Meeting Minutes, December 16, 2009, Regular CC Meeting

Page 29-30 C. Res. 2010-01 Supporting Funding of the Anoka-Champlin Meals on Wheels
D. Submittal of RFP for Energy Efficient/Conservation Block Grant Program - ARRA

E. Approval of Paid-On-Call Firefighters' Medical Reimbursement Program

Page 31-54 F. Amend Health Flexible Spending Account for Paid-On-Call Firefighters Policy

Page 55 G. Resolution 2010-02 Supporting High Speed Broadband Connectivity

Page 56-61 H. Recycling Grant Agreement – Anoka County

New Business

7.0 Commission, Association and Task Force Reports

A. Planning Commission (**No Report**)

B. Park Commission (**No Report**)

C. Road Commission (**No Report**)

8.0 Department Reports

A. Engineer (**No Report**)

B. Attorney (**No Report**)

C. Finance (**No Report**)

D. Public Works (**No Report**)

7:52 PM E. Planning and Inspection/Code Enforcement

Page 62-82 1. Adopt Ordinance 15, Second Series, Transmission Line

Page 83-86 2. Adopt Summary of Ordinance 15, Second Series, Transmission Line

8:02 PM F. Fire Department

Page 87-89 1. Appoint Fire Department Officers

8:05 PM G. City Administrator

Page 90-91 1. City Council E-Mail Addresses

Page 92-108 2. Labor Agreement Teamster's Local 320

9.0 Other

8:15 PM A. Council Reports

8:20 PM B. Other

8:25 PM Page 109-110 C. 2010 Council Commission/Committee Appointments

8:35 PM **10.0 Adjourn**



City of East Bethel City Council Agenda Information

Date:

January 6, 2010

Agenda Item Number:

Item 3.0 A

Agenda Item:

Oath of Office Council Member Select Steve Channer

Requested Action:

Administer the Oath of Office to Council member Select Channer

Background Information:

With the resignation of Council member Klein, Council declared a vacancy and proceeded to fill the vacancy. As a result of the process, Mr. Steven Channer was selected to serve the remainder of term.

Before Mr. Channer is seated, he must take the oath of office.

Attachment(s):

- 1. Oath of Office

Fiscal Impact:

None

Recommendation(s):

The Clerk should administer the oath of office.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____

State of Minnesota }
County of Anoka }
City of East Bethel }

I, Steven Channer do solemnly swear that I will support the Constitution of the United States and of the State of Minnesota, and faithfully discharge the duties of the office of Council Member of the City of East Bethel in the County of Anoka and State of Minnesota, to the best of my judgment and ability. So help me God.

Attachment #1



City of East Bethel City Council Agenda Information

Date:

January 6, 2010

Agenda Item Number:

Item 6.0 A-H

Agenda Item:

Consent Agenda

Requested Action:

Consider approving Consent Agenda as presented

Background Information:

Item A

Bills/Claims

Item B

Meeting Minutes, December 16, 2009 Regular City Council

Meeting minutes from the December 16, 2009 Regular City Council meeting are attached for your review and approval.

Item C

Res. 2010-01 Supporting Funding of the Anoka-Champlin Meals on Wheels

The North Anoka County Meals on Wheels Program ceased operation in June of 2008. The Anoka-Champlin program picked up this service area in July 2008 and began delivering meals through the Our Saviour's location in September 2008. Funding for this program is through a combination of donations and grants including CDBG funds. Traditionally, the City has provided a resolution to this program supporting their application for CDBG funding for this program. Resolution Number 2010 provides for City Council support of the Anoka-Champlin program and their application for CDBG funding for 2010.

Item D

Submittal of RFP for Energy Efficiency and Conservation Block Grant Program - ARRA

The Minnesota Department of Commerce Office of Energy Security (OES) is accepting proposals from Minnesota local units of government for Energy Efficiency and Conservation Block Grant Program (EECBG) funded by the American Reinvestment and Recovery Act of 2009 (ARRA).

An eligible project includes energy efficiency retrofits. There is no minimum match required for the EECBG Competitive Grant Program. However, given that proposals will compete based on energy-savings per grant dollar requested, matching funds will increase a applicant's score.

City staff would like approval to submit a proposal to replace 400w Metal Halide rink lighting with 6LT8 High Bay lighting in the Ice Arena. The City has received one estimate from Budget Lighting Company to replace the lighting for \$13,130. However, we will need to ensure that Budget Lighting Company will meet the Federal Requirements and State requirements of the grant.

City staff is recommending a proposal be submitted to OES for \$11,700 with a City Match of \$1,200 and the Electric Utility Rebate of \$4,800 for an estimated total project cost of \$16,500.

The \$1,200 match would be paid from the Ice Arena; item 403 (Bldgs/Facilities Repair/Maint).

All work to be performed within a proposed scope of work must be completed no later than March 31, 2011 for all approved projects.

The RFP and application are available in the Administration Department but is not attached here because of the document's size. City staff will ensure all questions are completed prior to submitting the RFP by January 25, 2010.

Staff recommends direction to the Assistant City Administrator/HR Director to prepare and submit a RFP for the Energy Efficiency and Conservation Block Grant Program - ARRA application by January 25, 2010. The City Administrator is hereby authorized to sign as the grant applicant on behalf of the City per City Grant Policy.

Item E

Approval of Paid-On-Call Firefighters Medical Reimbursement Program

The City of East Bethel's Fire Department was recently awarded a SAFER grant. The primary purpose of this grant award is to retain our trained, professional fire fighters and offer programs that will benefit the firefighter and the City as part of department operations. Part of this four year Grant program includes a health insurance match up to \$1,000 per year per firefighter. The health insurance portion of the grant equals a total \$30,000 each year.

City Council recently adopted a policy to reimbursement qualifying firefighters. The IRS also requires a Medical Reimbursement Plan be adopted in order to reimburse paid-on call firefighters. City staff worked with Hitesman & Associates, P.A. in preparing the Medical Reimbursement Plan to comply within the framework of IRS regulations. The purpose of the Plan is to provide paid-on-call firefighters with an opportunity to receive reimbursement for eligible health care expenses.

Staff recommends adoption of the Paid-On-Call Firefighters' Medical Reimbursement Plan as presented.

Item F

Amend Health Flexible Spending Account for Paid-On-Call Firefighters Policy

The City Council recently adopted the Health Flexible Spending Account for Paid-On-Call Firefighter. City staff worked with Darcy Hitesman from Hitesman and Associates, P.A., and it was determined that a grant dollars could not be used to fund a Flexible Spending Account program for the firefighters. However grant dollars can be used to fund a Medical Reimbursement Plan.

Attached is an amended policy changing the policy wording from a Health Flexible Spending Account to a Medical Reimbursement Plan. This policy complements the Paid-On-Call Firefighters' Medical Reimbursement Plan.

Staff recommends adoption of the amended 2008 SAFER Paid-On-Call Firefighters' Medical Reimbursement Plan as presented.

Item G

Resolution 2010-02 Supporting High Speed Broadband Connectivity

Anoka County began a project last spring called Connect Anoka County. Connect Anoka County is a collaborative, County-led effort to evaluate current broadband connectivity throughout the County and to consider creative solutions for improving connectivity for local government, schools, businesses, and residents. Anoka County has completed a process to gain input from the community, cities, colleges and school districts. They have held three community meetings, completed a phone survey of residents, conducted a survey of county businesses, and completed a map of current broadband connectivity in the County.

On November 24, the Anoka County Board approved a resolution that allows them to issue an RFP and is actively pursuing a private broadband partner and intends to apply for federal stimulus funding. While the final project design will depend on the partner selected and funding received, the county has set the following fiber routing priorities:

Option 1: Connect all institutional locations including county, city, school district and college buildings.

Option 2: Include Option 1, plus key business locations

Option 3: Includes Options 1 and 2, plus build out to unserved and underserved areas in the county.

Anoka County has also identified the following goals in the County for improved broadband services:

- Increase efficiency and transparency of government;
- Promote job creation, business growth and economic development;
- Provide affordable, true broadband connectivity to all residents, businesses and institutions, especially those with little or no broadband today;
- Increase customer choice and competition;
- Stimulate private investment in broadband service delivery; and
- Reduce the digital divide.

Anoka County is currently in the process of determining the costs of the build out for the broadband project for the options listed above. The resulting cost information will determine the amount that will be requested. They anticipate that the grant process will be very competitive. There is much interest around the country in receiving stimulus funds for broadband development. The details have not yet been determined on how the funding mechanisms would work. This depends, not only on the cost, but also on the selection of the private partner.

City staff is recommending approval of Resolution No. 2010-XX, Support for Anoka County High Speed Broadband Connectivity.

Item H

Recycling Grant Agreement – Anoka County

Annually, the City receives a proposed agreement from Anoka County to share in the SCORE funding for recycling activities. The SCORE funds are made available through the State. Funds are collected by the state with a surcharge on waste disposal. In turn, the state provides grant dollars to counties and cities for their recycling activities such as clean-up day, recycle day, etc.

The City is eligible for reimbursement of up to \$30,721.32 for our recycling activities. We have received the maximum reimbursement for the past four years for these activities. Staff recommends approval of the Agreement for Residential Recycling Program with Anoka County for calendar year 2010 and direction to execute the agreement on the City's behalf.

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: _____



2009 Bills to be Approved for Payment January 6, 2010	\$71,697.70
2010 Bills to be Approved for Payment January 6, 2010	\$14,198.31
Payroll Fire Dept - December 15, 2009	\$7,375.29
Payroll City Council - December 23, 2009	\$1,760.85
Payroll City Staff - December 23, 2009	\$36,123.08
Electronic Payments	\$28,277.46

Total to be Approved for Payment January 6, 2010	\$159,432.69
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Approved by Council Member:

Steve Voss	Kathy Paavola	Greg Hunter	Steve Channer	Bill Boyer
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City of East Bethel
January 6, 2010
2009 Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
207-209th East 65 Service Road	Architect/Engineering Fees	PA00018205I	MN Dept of Transportation	402	43121	145.42
Arena Operations	Bldg/Facility Repair Supplies	-26661	Class C Components	615	49851	597.55
Arena Operations	Bldg/Facility Repair Supplies	-26661	Class C Components	615	49851	139.25
Arena Operations	Bldg/Facility Repair Supplies	65426	Class C Components	615	49851	369.66
Arena Operations	Bldgs/Facilities Repair/Maint	120809	Dans Sewer Service	615	49851	700.00
Arena Operations	Bldgs/Facilities Repair/Maint	73848	Olson's Sewer Service, In	615	49851	329.00
Arena Operations	Bldgs/Facilities Repair/Maint	73823	Olson's Sewer Service, In	615	49851	99.00
Arena Operations	Bldgs/Facilities Repair/Maint	8381	Vogel Sheet Metal, Inc.	615	49851	387.00
Arena Operations	Bldgs/Facilities Repair/Maint	8383	Vogel Sheet Metal, Inc.	615	49851	2,365.00
Arena Operations	Concession for Resale	747847	Indianhead Foodservice Distrib	615	49851	911.66
Arena Operations	Concession for Resale	118274623	Midwest Coca Cola Bottling	615	49851	911.60
Arena Operations	Concession for Resale	118275625	Midwest Coca Cola Bottling	615	49851	778.45
Arena Operations	Concession for Resale	118275023	Midwest Coca Cola Bottling	615	49851	799.40
Arena Operations	Concession for Resale	780034	The Watson Co, Inc.	615	49851	68.44
Arena Operations	Concession for Resale	780217	The Watson Co, Inc.	615	49851	300.90
Arena Operations	Concession for Resale	779948	The Watson Co, Inc.	615	49851	421.55
Arena Operations	Concession for Resale	780537	The Watson Co, Inc.	615	49851	498.11
Arena Operations	Concession for Resale	780239	The Watson Co, Inc.	615	49851	154.67
Arena Operations	Concession for Resale	780447	The Watson Co, Inc.	615	49851	91.14
Arena Operations	Gas Utilities	220428094	Xcel Energy	615	49851	2,493.22
Arena Operations	General Operating Supplies	4113	Menards Cambridge	615	49851	124.21
Arena Operations	Motor Fuels	1030524625	Ferrellgas	615	49851	234.51
Arena Operations	Motor Fuels	1030839672	Ferrellgas	615	49851	252.71
Arena Operations	Refuse Removal	1129969	Walters Recycling, Inc.	615	49851	242.93
Arena Operations	Repairs/Maint Machinery/Equip	511598	Jorson & Carlson Co., Inc	615	49851	80.50
Arena Operations	Small Tools and Minor Equip	9146408787	Grainger	615	49851	100.65
Arena Operations	Small Tools and Minor Equip	141971	Seven Corners Hardware Inc.	615	49851	854.95
Building Inspection	Motor Fuels	171165	Egan Oil Company	101	42410	254.10
Building Inspection	Telephone	332373310-097	Nextel Communications	101	42410	21.79
Central Services/Supplies	Cleaning Supplies	2162355	Dalco	101	48150	133.03
Central Services/Supplies	Information Systems	10398	City of Roseville	101	48150	1,251.83
Central Services/Supplies	Legal Notices	IQ 01762135	ECM Publishers, Inc.	101	48150	215.25
Central Services/Supplies	Legal Notices	IQ 01762265	ECM Publishers, Inc.	101	48150	230.63
Central Services/Supplies	Office Equipment Rental	5896486-DC09	Pitney Bowes, Inc.	101	48150	137.10
Central Services/Supplies	Office Supplies	501839382001	Office Depot	101	48150	96.02
Central Services/Supplies	Office Supplies	500450329001	Office Depot	101	48150	45.88
Central Services/Supplies	Office Supplies	500553984001	Office Depot	101	48150	10.86
Central Services/Supplies	Office Supplies	499947993001	Office Depot	101	48150	144.45
Central Services/Supplies	Other Advertising	IQ 01761989	ECM Publishers, Inc.	101	48150	36.00
Central Services/Supplies	Repairs/Maint Machinery/Equip	2325180139	Verizon Wireless	101	48150	81.77
City Administration	Telephone	2325180139	Verizon Wireless	101	41320	45.71
City Administration	Travel Expenses	122909	Douglas Sell	101	41320	200.00
Fire Department	Gas Utilities	220428094	Xcel Energy	101	42210	1,094.04
Fire Department	General Operating Supplies	80351315	Bound Tree Medical, LLC	101	42210	599.29
Fire Department	Information Systems	120109	Qwest	101	42210	218.02
Fire Department	Motor Fuels	171165	Egan Oil Company	101	42210	404.25
Fire Department	Motor Fuels	171166	Egan Oil Company	101	42210	331.50
Fire Department	Office Supplies	501839382001	Office Depot	101	42210	128.87
Fire Department	Other Advertising	P17477270101	TigerDirect.com	231	42210	499.99
Fire Department	Professional Services Fees	122909	City of East Bethel	231	42210	1,666.67

City of East Bethel
January 6, 2010
2009 Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Fire Department	Professional Services Fees	113009	City of East Bethel	231	42210	1,666.67
Fire Department	Refuse Removal	1129971	Walters Recycling, Inc.	101	42210	35.73
Fire Department	Repairs/Maint Machinery/Equip	14341	Jerry's Transmission Service	101	42210	140.44
Fire Department	Small Tools and Minor Equip	1291799	Kimball Midwest	101	42210	152.52
Fire Department	Telephone	6261168	Integra Telecom	101	42210	143.33
Fire Department	Telephone	332373310-097	Nextel Communications	101	42210	120.70
Fire Department	Telephone	120109	Qwest	101	42210	60.80
General Govt Buildings/Plant	Bldgs/Facilities Repair/Maint	470394330	Cintas Corporation #470	101	41940	19.63
General Govt Buildings/Plant	Gas Utilities	220428094	Xcel Energy	101	41940	602.90
General Govt Buildings/Plant	Telephone	6261168	Integra Telecom	101	41940	229.31
Legal	Legal Fees	113009	Carson, Clelland & Schreder	101	41610	7,382.21
Legal	Legal Fees	122909	Randall and Goodrich, P.L.C.	101	41610	1,336.75
Mayor/City Council	Commissions and Boards	1654	City of Oak Grove	101	41110	2,059.26
Mayor/City Council	Commissions and Boards	39934	Sunrise River WMO	101	41110	2,676.99
Mayor/City Council	Office Supplies	8806	Norseman Awards	101	41110	37.48
Mayor/City Council	Other Advertising	21835	The Courier	101	41110	50.00
Park Maintenance	Clothing & Personal Equipment	470390865	Cintas Corporation #470	101	43201	45.81
Park Maintenance	Clothing & Personal Equipment	470387326	Cintas Corporation #470	101	43201	45.81
Park Maintenance	Motor Fuels	171166	Egan Oil Company	101	43201	637.50
Park Maintenance	Motor Fuels	171165	Egan Oil Company	101	43201	346.50
Park Maintenance	Professional Services Fees	121409	Jill Teetzel	101	43201	75.00
Park Maintenance	Small Tools and Minor Equip	11020	Isanti County Equipment	101	43201	662.61
Park Maintenance	Small Tools and Minor Equip	176128	Lano Equipment, Inc.	101	43201	706.66
Park Maintenance	Telephone	6261168	Integra Telecom	101	43201	52.55
Park Maintenance	Telephone	332373310-097	Nextel Communications	101	43201	88.60
Planning and Zoning	Architect/Engineering Fees	26204-1	Hakanson Anderson Assoc. Inc.	802		242.00
Planning and Zoning	Architect/Engineering Fees	26204-2	Hakanson Anderson Assoc. Inc.	803		242.00
Planning and Zoning	Architect/Engineering Fees	26204-2	Hakanson Anderson Assoc. Inc.	831		242.00
Planning and Zoning	Commissions and Boards	120909	Julie Moline	101	41910	200.00
Planning and Zoning	Escrow Reimb	121109	Arthur Swanson	803		758.00
Planning and Zoning	Escrow Reimb	121009	Cemstone Products Company	827		2,400.00
Planning and Zoning	Escrow Reimb	121109	Mike Thomas	802		1,051.25
Planning and Zoning	Escrow Reimb	121109	Todd Ganz	831		2,981.38
Planning and Zoning	Legal Fees	122909	Randall and Goodrich, P.L.C.	903		140.00
Planning and Zoning	Telephone	332373310-097	Nextel Communications	101	41910	21.79
Recycling Operations	Bldg/Facility Repair Supplies	209253	S & S Industrial Supply	226	43235	31.93
Recycling Operations	Gas Utilities	220428094	Xcel Energy	226	43235	139.48
Recycling Operations	General Operating Supplies	502034	Ver-Tech Inc.	226	43235	330.24
Recycling Operations	Hazardous Waste Disposal	2021907	OSI Environmental, Inc.	226	43235	120.00
Recycling Operations	Heavy Machinery	502033	Ver-Tech Inc.	226	43235	12,501.17
Recycling Operations	Professional Services Fees	502034	Ver-Tech Inc.	226	43235	327.04
Recycling Operations	Refuse Removal	1129972	Walters Recycling, Inc.	226	43235	242.93
Recycling Operations	Travel Expenses	121609	Lori Elfering	226	43235	19.14
Sewer Operations	Legal Fees	122909	Randall and Goodrich, P.L.C.	602	49451	1,037.25
Sewer Operations	Small Tools and Minor Equip	3627	Menards Cambridge	602	49451	102.28
Street Maintenance	Bldgs/Facilities Repair/Maint	470390865	Cintas Corporation #470	101	43220	26.48
Street Maintenance	Bldgs/Facilities Repair/Maint	470387326	Cintas Corporation #470	101	43220	26.48
Street Maintenance	Clothing & Personal Equipment	470387326	Cintas Corporation #470	101	43220	45.86
Street Maintenance	Clothing & Personal Equipment	470390865	Cintas Corporation #470	101	43220	45.86
Street Maintenance	Equipment Parts	H78940	H&L Mesabi	101	43220	1,563.71

City of East Bethel
January 6, 2010
2009 Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Street Maintenance	Gas Utilities	220428094	Xcel Energy	101	43220	288.94
Street Maintenance	Motor Fuels	171166	Egan Oil Company	101	43220	1,581.00
Street Maintenance	Motor Fuels	171165	Egan Oil Company	101	43220	150.15
Street Maintenance	Motor Vehicles Parts	1539-361905	O'Reilly Auto Parts	101	43220	30.49
Street Maintenance	Motor Vehicles Parts	1539-362083	O'Reilly Auto Parts	101	43220	100.93
Street Maintenance	Motor Vehicles Parts	1539-363447	O'Reilly Auto Parts	101	43220	33.38
Street Maintenance	Motor Vehicles Parts	1539-361716	O'Reilly Auto Parts	101	43220	171.60
Street Maintenance	Motor Vehicles Parts	1539-361649	O'Reilly Auto Parts	101	43220	42.06
Street Maintenance	Motor Vehicles Parts	3272	Plow World, Inc.	101	43220	80.72
Street Maintenance	Motor Vehicles Parts	PC001177841	Ziegler Inc.	101	43220	110.61
Street Maintenance	Motor Vehicles Parts	PC001178290	Ziegler Inc.	101	43220	8.61
Street Maintenance	Personnel/Labor Relations	122809	Allina OccMed	101	43220	65.00
Street Maintenance	Personnel/Labor Relations	417977	Choicepoint Services, Inc	101	43220	58.00
Street Maintenance	Professional Services Fees	121409	Jill Teetzel	101	43220	85.00
Street Maintenance	Refuse Removal	1129970	Walters Recycling, Inc.	101	43220	242.93
Street Maintenance	Shop Supplies	2163724	Dalco	101	43220	247.63
Street Maintenance	Small Tools and Minor Equip	2647	Menards Cambridge	101	43220	76.57
Street Maintenance	Street Maint Materials	10981	Bjorklund Trucking	101	43220	75.56
Street Maintenance	Street Maint Materials	10982	Bjorklund Trucking	101	43220	63.29
Street Maintenance	Street Maint Materials	2647	Menards Cambridge	101	43220	119.52
Street Maintenance	Telephone	6261168	Integra Telecom	101	43220	52.55
Street Maintenance	Telephone	332373310-097	Nextel Communications	101	43220	88.40
Water Utility Operations	Gas Utilities	121609	CenterPoint Energy	601	49401	162.20
Water Utility Operations	Professional Services Fees	122909	Decision Resources	601	49401	1,250.00
						\$71,697.70
Electronic Payments - Payroll						
			PERA			\$6,327.40
			Federal Withholding			\$5,334.77
			Medicare Withholding			\$1,899.30
			FICA Tax Withholding			\$7,310.20
			State Withholding			\$2,393.83
			MSRS			\$5,011.96
						\$28,277.46

City of East Bethel
January 6, 2010
2010 Payment Summary

Department	Description	Invoice	Vendor	Fund	Dept	Amount
Building Inspection	Conferences/Meetings	122309	University of Minnesota	101	42410	180.00
Finance	Software Licensing	144619	Banyon Data Systems, Inc.	101	41520	1,561.20
Mayor/City Council	Dues and Subscriptions	122209	Mediation Services	101	41110	1,336.00
Payroll	Insurance Premiums	4354810	Delta Dental	101		1,040.30
Payroll	Insurance Premiums	39823	Fort Dearborn Life Ins Co.	101		1,114.27
Payroll	Insurance Premiums	19197831	Medica Health Plans	101		8,763.30
Street Maintenance	Welding Supplies	105102386	Airgas North Central	101	43220	203.24
						\$14,198.31

EAST BETHEL CITY COUNCIL MEETING

December 16, 2009

The East Bethel City Council met on December 16, 2009 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Greg Hunter Anne Klein
Kathy Paavola Steve Voss

ALSO PRESENT: Douglas Sell, City Administrator
Tammy Schutta, Asst. City Administrator/HR Director
Jerry Randall, City Attorney
Craig Jochum, City Engineer

Call to Order **The December 16, 2009 City Council meeting was called to order by Mayor Hunter at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the December 16, 2009 City Council agenda. Paavola seconded. Voss amended his motion to move Item 8.0 E Resolution 2009-115 up before Item 8.0 D Interview Council Applicants. Paavola seconded the amendment; all in favor, motion carries.**

Sheriff's Report Lt. Orlando reported on the custodial arrests/significant arrests for the month of July 2009 as follows:

11-07-09 - Domestic Assault - Deputies responded to a mother / adult son domestic assault where the male had left. Deputies learned that the male had been drinking and was arguing with his mother. The male became angry and pushed his mother to the ground then left. The male was located and taken to jail. He was charged with domestic assault and underage consumption.

11-24-09 - DUI / Possess Controlled Substance / Felony Warrant Arrest - A deputy stopped to assist a vehicle which was stopped on the shoulder of the road. The driver advised he had run out of gas. The passenger was found to have a felony warrant and upon searching him, a baggie containing methamphetamine. The driver failed field sobriety tests and also was in possession of a baggie of methamphetamine. Both males were arrested and jailed.

11-28-09 - DUI / Test Refusal / Driving After Suspension - A deputy made a routine traffic stop on a vehicle after the registration showed the owner as being revoked. The driver was the owner and smelled of an alcoholic beverage. The male failed field sobriety tests. The male advised he would not take the intoxilyzer test.

Lt. Orlando said domestic calls (non-crime) for the month were twenty-one (21) and DWI arrests for this month were five (5).

Lt. Orlando said on the report given to Council, the Community Service Officer numbers are not updated. She said with our move just happening several logs were not updated, so we will get you an updated report. Hunter asked if they are completely moved into the new building. Lt. Orlando said she is and others are working on it. Hunter said he noticed the

other day that there was a DWI Task Force on County Road 22. Lt. Orlando said Anoka County ranks as the third deadliest county in the state for alcohol-related deaths so we received federal funding to pay for the DWI Task Force. She said we work with officers from all 12 law enforcement agencies in the county, plus the Minnesota State Patrol. Lt. Orlando said the task force runs an eight hour shift on the weekend, with 10-15 squads on the road, and MnDOT illuminated signs alert drivers that they are in a DWI enforcement zone. She said they have found that it really impacts the area they are in, just check the parking lots of the area bars because there are a lot of cars left in them when there is a DWI Task Force nearby. Lt. Orlando said we are making an effort to reduce the alcohol-related deaths.

Hunter said he is happy to say, he has been seeing state patrol cars in our City. Lt. Orlando said the state patrol works with us on the DWI Task Force. She said one or two of them come out. Boyer asked her to wish all our patrolmen a happy holiday. Lt. Orlando said she will pass that on to them. She said good luck to Council Member Klein; we will miss having her around. Lt. Orlando said Happy Holidays and remember do not drink and drive.

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

Consent Agenda **Boyer made a motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, December 2, 2009, Regular CC Meeting; C) 2010 Pay Plan; D) Resolution 2009-107, 2010 Fee Schedule; E) Cemstone Products Company Letter of Credit (LOC) Expiration; F) Resolution 2009-108 Official Depository Designation; G) Resolution 2009-109 Setting Tort Liability Limits; H) Approve Cigarette License Renewals; I) Approve Garbage Hauler License Renewals; J) Resolution 2009-110 Designating Official Newspaper; K) Resolution 2009-111 Setting Meeting Dates for 2010; L) Meeting Minutes, December 9, 2009, Special CC Meeting; M) Ed Kroutil – IUP Private Kennel License Renewal – 4455 Sportsman Road NE; N) Resolution 2009-112 Declaring Surplus Property – Balers; O) Resolution 2009-113 Setting Commission Meeting Stipend. Klein seconded; all in favor, motion carries.**

Planning Comm Minutes Sell explained that the unapproved meeting minutes from the November 24, 2009 Planning Commission meeting are presented for your review and information.

Steve & Marcia Bielefeld – Variance/ Detached Accessory Structure – 345 Elm Road Sell explained that on October 27, 2009, Planning Commission conducted a public hearing for a variance request to allow increased square footage of a detached accessory structure by the applicants, Steve and Marcia Bielefeld, 345 Elm Road. Planning Commission tabled the request with the recommendation that Ms. Bielefeld seek alternatives such as attaching a garage to the principal structure thus eliminating the need for a variance. The applicants notified staff that they wished to pursue the variance request.

Steve & Marcia Bielefeld – Variance/ Detached Accessory Structure – 345 Elm Road The requested variance is to increase the square footage of a detached accessory structure from 580 square feet (24 feet by 24 feet) to 784 square feet (28 feet by 28 feet) on a quarter acre parcel. The parcel is located in the Coon Lake Beach area, however, is not located within the shore land overlay district.

Currently, there is a 12 foot by 20 foot detached accessory structure that is in need of attention. The applicants would like to remove the existing structure and replace it with a 28 foot by 28 foot detached accessory structure. A survey of the property is attached for your review as Attachment 4.

The applicant's are requesting the variance to build a larger structure allowed by code because they have a son with special needs; they have indicated that the extra space is necessary to store his equipment. Further, it has been especially challenging loading and unloading him into the vehicle outside during inclement weather. The current structure is not large enough to park vehicles and store equipment needed for their son. The applicants have submitted a letter and photos, Attachment 3, that describe the type of equipment currently in use.

Variance Findings of Fact:

1. The applicants would like to use the property in a reasonable manner. Questions to ask:
 - a. Is the proposed use of a detached accessory structure on the parcel reasonable?
An accessory structure is a reasonable and permitted use. City Code Appendix A, Zoning, allows parcels less than an acre in size to have a 580 square foot structure. The applicants are not being denied a larger accessory structure than currently exists. However, there are size limitations regulated by city code.
 - b. Will the size of the accessory structure alter the character of the neighborhood? The slight increase in size may not alter the character of the residential neighborhood.
2. The circumstances requiring the variance request are not unique to the property. The applicants are permitted to construct a 580 square foot detached accessory structure. The applicants' son has equipment needed for his special needs and the existing 12 foot by 20 foot structure is not large enough to store the equipment and vehicles. The applicants do not think a 580 square foot structure is large enough to store the equipment and park cars.
3. The property owners did not create the unique situation that warranted the variance request.
4. The variance would not be harmful to neighboring properties or depreciate values; however, the increased size may create an issue if additional requests are submitted for larger than permitted accessory structures.
5. The variance may/may not be in the keeping with the spirit and intent of the code. The intent of granting variances is because a hardship has been established.

Planning Commission recommends approval to City Council of a variance to increase the square footage requirements for a detached accessory structure from 580 square feet to 784 square feet at 345 Elm Road with the following recommendations:

1. The exterior design and color of the structure must be compatible with that of the principal structure and meet all other zoning code requirements.
2. The applicants must obtain a building permit prior to the construction of the structure.
3. A Variance Agreement must be signed prior to the issuance of a building permit and by no later than January 16, 2009. Failure to execute the variance agreement will void City Council's motion of approval.

However, City Council may consider denying the variance to increase the square footage requirements for a detached accessory structure from 580 square feet to 784 square feet at 345 Elm Road based on the findings of fact that provide an alternative.

Boyer made a motion to approve the request of Steve & Marcia Bielefeld at 345 Elm Road (PIN 36-33-23-24-0044) for a variance to increase the square footage requirements for a detached accessory structure from 580 square feet to 784 square feet with the following requirements: 1) The exterior design and color of the structure must be compatible with that of the principal structure and meet all other zoning code requirements; 2) The applicants must obtain a building permit prior to the construction of the structure; 3) A Variance Agreement must be signed prior to the issuance of a building permit and no later than January 16, 2009. Failure to execute the variance agreement will void City Council's motion of approval. Paavola seconded.

Voss asked the Bielefeld's to come forward and state their name and address. Steve Bielefeld of 345 Elm Road said he will try to answer the questions. Voss said at the first Planning Commission meeting you attended, there was discussion about looking at having an attached garage as opposed to the detached. Bielefeld said his son goes down the ramp and right to the bus, so basically if we did an attached garage, he would have to go a lot further, a roundabout way, and this is basically for his needs, to make his approach to the bus easier. He said we finally him trained to go that route.

Voss asked but the real reason you are looking at an oversize structure is to have more room. Bielefeld said yes, to have more room for his son's equipment and to get the medical van inside to load and unload him inside, and it will be heated hopefully. Voss said it seems to him that if the garage was attached then your son wouldn't have to go outside at all. Bielefeld said they said they could do an extended patio with a roof, but otherwise it wouldn't work. Paavola said she was wondering would it be feasible to put up an awning to keep the elements out. Voss said the current garage is on the other side of the lot. He said they wouldn't have to worry about a variance if it was an attached garage. Marcia Bielefeld said they don't want to take away their son's independence; it took him years to learn to do this.

Voss said looking at the site plans; it looks like you could do an attached garage. Bielefeld said we have had two designers out to the house and they would have to disrupt the ramp to do this. She said one said we would make a mud room and a ramp would go through the house and around, it would go right down to the garage which is just harder for him. Bielefeld said the other one had the ramp going off and around all the way to the back of the garage. She said then he wouldn't be able to go down the ramp to the bus. Bielefeld said both plans are harder for him to get around, and he will need more help. Voss said if you were looking for room for access to the van and storage of equipment you would still have existing garage for the equipment if you did this as an attached garage. Bielefeld said as far as their existing garage, it is hardly worth it to restore it because it would cost a lot of money to restore it and build another garage. He said the main concern that we had and the designer realized it right away was the equipment and it takes 16 feet to get our son in the van. Mrs. Bielefeld said she gave photos and measurements of their van to the planning commission and the city planner. **Hunter and Voss, nay; Boyer, Klein and Paavola, aye; motion carries.**

Resolution 2009-114 Accepting Work and Final Payment

Sell explained that Rum River Contracting has completed all construction work including punch list items and has submitted all the required documentation to consider this project for final payment. Attached is Resolution 2009-114 which accepts the project and starts the one year warranty period. The warranty is secured by a performance bond currently in place. Attached is a copy of the final payment form for the project, Attachment #6. The final contract amount is \$578,594.59. Construction costs for this project are financed through the City's State Aid Construction Fund, Street Capital Funds, Park Capital Funds and Cooperative Agreement Grant Funds.

Staff recommends approval of Resolution 2009-114 Accepting Work & Consideration of Final Payment to Rum River Contracting for Davenport St., 241st Avenue Overlay, Booster Pond Trail & Maynard Peterson Park Parking Lot and recommends final payment in the amount of \$23,448.30 to Rum River Contracting, Inc. for Davenport Street, 241st Avenue Overlay, Booster Pond Trail and Maynard Peterson Park Parking Lot. Klein seconded; all in favor, motion carries.

Pay Estimate 1 & 2 Project One Construction – Cedar Creek Picnic Shelter Project

Sell explained that Project One, Inc. the contractor for the Cedar Creek Shelter project has submitted pay estimates No. 1 and 2 for the project. The major work performed for these pay requests include costs for general requirements, footings and piers, block work and support steel. The Pay Estimate includes payment for work completed to date less the five percent retainage. A partial payment of \$8,212.75 is requested. A summary of the recommended payment was included in your agenda materials.

Construction costs for this project are financed through the Cedar Creek appropriation in the amount of \$40,650, the Parks Maintenance Budget in the amount of \$2,650 and the Parks Capital Fund in the amount of \$6,850. Staff recommends approval of Pay Request No. 1 and 2 in the amount of \$8,212.75 to Project One, Inc. for the Cedar Creek Pavilion Project.

Boyer made a motion to approve Pay Request No. 1 & 2 in the amount of \$8,212.75 to Project One, Inc. for the Cedar Creek Pavilion Project. Paavola seconded; all in favor, motion carries.

Code Enforcement Report

Sell explained that the Code Enforcement Report for November, 2009 is submitted for your review and information. He said as you will notice on the report, one more substandard building has been demolished.

David Hicks – Extension Request – 22906 Jackson St. NE

Sell explained that at the regularly City Council meeting on August 5, 2009, Mr. Hicks requested and Council approved a request for additional time to abate the public nuisance and hazardous excavation issues associated with his residential real property located at 22906 Jackson St NE. Mr. Hicks had been served with a compliance order regarding the property following a fire that destroyed the residence but left an open basement and other debris around the property.

Council tabled Resolution 2009-65 which ordered the correction of the hazardous conditions associated with Mr. Hick's property. Council granted Mr. Hicks an extension conditioned on several items:

1. The basement must be adequately barricaded to prevent accidental access. The barricade must be in place within 2 days of Council action and must be maintained.

2. The property must be cleaned of all junk, trash and debris within 20 days of Council action.
3. Mr. Hicks will be allowed 90 days from the date of Council action to dispose of the property or the correction order must be followed. This includes abating the open excavation, seal the well and remove the on site sewage treatment system.

Mr. Hicks has completed the removal of all junk, trash and debris within the prescribed time frame and has secured the barricade around the foundation. However, the open excavation, septic system and well remain on site.

Mr. Hicks contacted the Building Official on December 2nd requesting an extension to City Council's action of August 5th. The Building Official directed Mr. Hicks to submit his request in writing and informed him that the City Council would review his request and make a determination at the next regularly scheduled council meeting.

Staff recommends approval of an extension for compliance letter requirements until May 30, 2010 with the condition that Mr. Hicks reimburse the city \$200.00 for site inspections. Further, that Mr. Hicks contact Mr. Steven D. Bennett, Minnesota Department of Health, Well Management Section, within 14 days of council action.

Sell said subsequent to the agenda material being prepared, we received a call from real estate agent and she indicated that an offer has been made on the property. Hunter asked if we grant the extension to Hicks, can we grant the extension to the property. Voss said yes, how we can do this because if the purchase goes through they will need time to improve the property. Hunter asked can we make this extension go with the property. Randall said you can grant the extension of time to fix the code deficiencies at such and such property.

Voss made the motion to approve the request for an extension for compliance letter requirements until May 30, 2010 for the property currently owned by David Hicks at 22906 Jackson St NE. The extension will stay with the property, even if ownership of the property changes. Klein seconded. Boyer said it will be hard to get the work done by May 30th, they would have to get the contactors to do the work and the work would have to be completed. He said he would ask that Voss amend his motion to extend the extension until June 30. **Voss amended his motion changing the extension from May 30, 2010 to June 30, 2010. Klein seconded the amendment; all in favor, motion carries.** Voss asked about the requirement to contact the Minnesota Department of Health. Sell said Hicks has not contacted them, and they need to be contacted because of the well. Voss said he did not include this in his motion, this is a state action.

Fire
Department
Reports

Sell explained that Fire Department reports for the month of November are provided for your review and information.

Award Fire
Truck Bid

Sell explained that bid specifications were approved by the Council at their July 1, 2009 meeting. The specifications were advertised in the City's official newspaper, on the City's web site and on the LMC web site. Bids were accepted on 11:00 am on November 25, 2009 and included bids from Fire Safety U.S.A, \$150,000.00; General Safety Fire Apparatus, \$161,473.00; and North Central Ambulance \$184,740.67. Staff has reviewed each bid proposal comparing the proposal to the specification to ensure each vendor met the specification.

Fire Safety USA's bid did not meet the minimum specifications in a number of areas. Staff has notified the vendor that their bid proposal will not be considered. General Safety Fire Apparatus bid was \$161,473.00 and substantially meets or exceeds the approved specifications. A minor item is the need for an oil drain petcock on the pump motor that will be added at no charge. Their delivery would be 270 days from the order. North Central Ambulance bid was \$184,740.67 and substantially meets or exceeds the approved specifications. The seating, interior and exterior features are described vaguely and a few items have been included that were not part of the specification. These additions do not enhance the final product. Delivery would be 180 days from date of order.

Staff is recommending that the Fire Safety USA bid be rejected as the bid did not substantially meet the bid specifications as approved by the City Council.

This vehicle has been budgeted for in the current capital equipment fund. Should the award be made to General Safety Fire Apparatus in the amount of \$161,473.00, the bid award would be under the estimated replacement cost of \$175,000.00.

Staff recommends the acceptance of the General Safety Fire Apparatus's bid of \$161,473.00 and direction to execute the contract for purchase with an anticipated delivery 270 days from the date of the order. Under this proposal, the City will acquire the chassis through the state contract and pay for the chassis upon delivery to the vendor.

Boyer made a motion to reject the bid for the Fire Attack Vehicle from Fire Safety USA because their bid did not meet the specifications as detailed in the bid package. Voss seconded. Voss asked about the deficient items in the bid submitted by Fire Safety USA, do we have the amount of what they would cost. Sell said about \$15,000. **All in favor, motion carries.**

Voss made a motion to accept the bid for the Fire Attack Vehicle from General Safety Fire Apparatus in the amount of \$161,473.00 and direction to execute the contract for purchase with an anticipated delivery date 270 days from the date of the order. Paavola seconded; all in favor, motion carries.

Sheriff
Contract for
2010

Sell explained that the Sheriff has provided an agreement for patrol services for calendar year 2010. The proposal provides for 40 hours of patrol service in a 24 hour period for 2010 with 20 hours of Community Service Officer support per week.

This proposal represents the continuation of the coverage that Council approved beginning July 1, 2008 that was an expansion from the 32 hours of coverage in a 24 hour period. Funding for this level of service is provided for in the 2010 Budget.

The cost of these services is proposed at \$1,070,675 less any credit provided for Police State Aid estimated at \$47,880 and less the JAG Grant funds of \$11,005. The net cost will be \$1,011,790. Staff is recommending approval of the Sheriff's proposal for a Law Enforcement Agreement for calendar year 2010 with direction to execute the agreement on the City's behalf.

Boyer made a motion to approve the contract for Law Enforcement Services for calendar year 2010 with the Anoka County Sheriff's Department and direction to execute the agreement. Voss seconded. Randall said there is a typo on the top of page 4, it says offices and should be officers. Boyer said he would like to point out this is 21% of the

cities budget. Hunter, nay; Boyer, Klein, Paavola and Voss, nay; motion carries.

Hunter said the reason he is voting against this is he wanted some accountability built into the contract. Boyer said he thinks some of the year end numbers they showed us indicated that some things are being done better. Hunter said he thinks some things should have been built into this contract. Klein said in Pine County, Hinckley was upset about the service they are getting and they wanted to reduce their hours and the commissioners hurried up and discussed this at a meeting and said that it wasn't allowed for them to reduce their services.

Extended Hours

Sell explained that the City Council approved extending the pilot program of expanded service hours one day per month from July through December, 2009. Residents were able to stop by City Hall from 4:00 p.m. – 7:00 p.m. on the first Wednesday of the month. Representatives from the inspection and/or planning departments as well as a finance department representative were available to the public for permits, payments of utility bills, pet license, burning permits, etc.

The service was advertised three occasions in the City's newsletter and continues to appear on the City's website. There was an article in the Anoka Union Newspaper. Work schedules were adjusted such that no additional overtime was necessary for the extended hours on these days. Staff has been willing to work with management to facilitate these extended hours. A recap of the traffic volume during this period was provided in your agenda materials. Staff is seeking Council direction on extending this program or terminating it.

Voss said he thinks at some point and time it will be important to have this, but it is hard to justify when looking at these numbers. He asked is it somehow beneficial to the employee that is doing this. Sell said there is probably not a detraction for the individual. He said they are here anyway and work can be done at the work station up front. Boyer said his personal feeling is a Saturday morning would be more used by people. He said it would be better to be open on Saturday mornings from 9:00 am to noon.

Klein said her feeling is you helped 28 people, then that is 28 people that didn't have to leave work early, etc. Paavola said if there is a person here anyway why not utilize them. Sell said we have the person that is taking minutes or recording to come in later in the day and do this. Hunter said it seems that this works better in the warm months, from May to September. Klein said 6 months isn't a long time, when she gets to work she forgets about her personal issues, then she leaves work and thinks, I didn't call the City or whatever business I had to take care of. Boyer said he thinks the vast majority of this is calls for service, if he can leave a voice mail he will call at anytime. He said he would think this was a better service if someone was getting a permit, meeting with someone getting questions answered, this seems like service to him. Sell said with respect to planning, building, or finance, if someone has a need after hours, we make sure someone is here. He said if someone needs assistance, the department heads stay.

Voss said he suggests we suspend this until such time as there is a demand for it. Paavola said maybe we should look at providing this from May to October. Boyer said he would like to look at being open on a Saturday and then give staff a Sunday and Monday off, so they still have a two day weekend. Voss said there are some things we can do electronically, the bigger cities do this. Sell said so do you want to look at a May to October time frame. Hunter said yes, let's ban this for now, and look at it again in the spring. Voss said staff will know when there is demand. Sell said we will bring this back in April.

Sell explained that the list of commission and committee assignments was provided with the December 4, 2009 UPDATE. While we understand that Council may not want to consider these appointments until a new Council member is selected, we are placing this item on the agenda such that Council is aware of the appointments to be made. Staff requests Council direction.

Boyer made a motion to table 2010 Commission/Committee Assignments until January 6, 2010. Paavola seconded; all in favor, motion carries.

Boyer said there are some mistakes on the list provided us. Hunter said he would like to have a three year picture.

Resolution
2009-115
Recognizing
and
Expressing
Appreciation
for Service to
the City by
Council
Member Anne
Klein

Sell explained that recently, Councilmember Klein announced her resignation effective December 31, 2009. Council Member Klein has served in a variety of positions as a Council Liaison and the City's Finance Committee.

Staff recommends City Council adopt Resolution 2009-115 Resolution Recognizing and expressing appreciation for service to the City by Council Member Anne Klein.

Boyer made a motion to adopt Resolution 2009-115 Recognizing and Expressing Appreciation for Service to the City by Council Member Anne Klein. Boyer read the Resolution as follows: Whereas, Council Member Klein has served the City of East Bethel as a member of the City Council for three years; and Whereas, Council Member Klein has served as the Council Liaison to the Roads Commission, Fire Department and Sheriff's Department; and Whereas, Council Member Klein has served on the City's Finance Committee; and Whereas, Council Member Klein has been instrumental in helping shape budgets in difficult times, setting fees and charges ensuring users pay for services provided, providing analysis of proposed activities resulting in efficient use of resources and assisting with development of personnel policies; and Whereas, Council Member Klein has been an advocate for the community encouraging growth and development while preserving the rural character of the community. Now therefore, be it resolved by the City Council of East Bethel, Minnesota that: The City Council hereby recognizes the contributions by Council Member Klein and expresses its thanks and appreciation to Council Member Anne Klein for her service to the City of East Bethel from January 2007 through December 2009. Adopted this 16th day of December, 2009 by the City Council of the City of East Bethel. **Voss seconded; all in favor, motion carries.**

Interview
Council
Applicants

Sell explained that at the December 9, 2009 special meeting, the City Council determined three applicants to be interviewed for the Council vacancy. The three applicants are Mr. Brian Bezanson, Mr. Steve Channer, and Ms. Julie Moline.

Hunter said we want all three to come forward like we do at the forums for elections and we will interview all together. Boyer said he has a suggestion that after interviews, Council vote by secret ballot up to three times. Voss said he thinks that is fair. He said then we can do it tonight. Boyer said that would be his intention.

Julie Moline of 23054 Erskine St. NE introduced herself. Steven Channer of 21572 Tyler St. NE introduced himself. Brian Bezanson of 22337 Quincy St. NE introduced himself. Sell explained that each applicant has five minutes for a brief introduction and overview of their qualifications.

Moline said she prepared a short speech, and brought her resume and letters of recommendation. She said good evening and thank you for the opportunity to interview for the City Council vacancy. Moline said she is currently a member of the Planning Commission and it has been a great experience. She said why would she want to be a City Council member. Well she has a strong interest in government; she is retiring from the City of Minneapolis and will have a lot of time on her hands. Moline said she wants to dig in, and she hopes she will be. She said the things she is currently working on in her office is the Minnesota Twins stadium, Northstar Rail, the RNC free speech committee, I 35W bridge, specific problems with pensions with the state, rezoning, budgeting with reduced resources and consolidating recycling and solid waste services. Moline said she has done a lot of research in these areas; the City lost about \$50 million in LGA. She said she went to the City of East Bethel website and looked at the budget and many other things. Moline said at her job in Minneapolis, she takes calls from the citizens and what they are thinking. She said she has worked for 5 council members and 2 mayors. Moline said recently she took a refresher course on parliamentary law and she is ready to go. She said she hopes you will give her some serious consideration.

Bezanson said you all know him and it feels kind of strange for him to be up here and not railing at the Council Members. He said he is a plain spoken person. Bezanson said when he did not re-file to run for another Council term in 2002 his Dad had passed away and he was going through personal issues and he needed a break. He said he wanted to step back from everything in the community. Bezanson said we backed off on our commitments and concentrated on our family and spent a lot of time up at Mille Lacs. He said he didn't want to deal with the budget mess the Council was going to have to deal with. Bezanson said he heard tonight that a little more than \$1,000,000 was going to the sheriff's department for services and he remembers when the city budget was less than \$1,000,000 and now we are just south of \$5,000,000. He said he knows about the hard decisions the Council makes up there. Bezanson said we looked at hard decisions for code compliance and he knows how tough it is when it is just the City working at it. He said look at how hard we worked on the junk yard off of Sims Road, and when it came out that there is a purchase agreement on the property he would have seen if we could have found out who the realtor is that is representing the buyer, because the City can put more pressure than the buyer. Bezanson said he is plain spoken and is giving no commitment past next December. He said he doesn't know if he wants to stay involved more than a year.

Channer said this is a different approach than when he has interviewed in the past. He said he has lived here since 2004; it was his 5th anniversary in July. Channer said before that we lived in Blaine and his family thought it was the end of the world. He said he liked living in the City, but in the country it feels like this is his kid's home town. Channer said living here has been a good experience for him. He said we are so spread out; it is not the same for his kids because you can't just run next door, and you have to get your parents to drive you. Channer said he has worked for MnDOT for many years and the last couple years he has specialized in right of way (ROW) work and from that he has learned you cannot make anyone happy, and no good deed goes unpunished. He said with the Planning Commission and up here you try to do your best and hope it works out.

Sell asked all three candidates Question One as follows: Why are you interested in becoming a member of the East Bethel City Council?

Bezanson said he is interested because he is duty driven. He said he spent 30 years in this community, and he did good work when he worked up there before. Bezanson said he wants to do more good work and not just for now but in the future. He said he wasn't to go up another level and think from dealing with the current council and previous council it seems to be a good organization to work with, you get things done.

Sell asked all three candidates Question Two as follows: What strengths and abilities would you bring to the East Bethel City Council?

Moline said she has dedicated her entire life to public service and she has done this for years and years, and the answer is not always no and she doesn't have a checkbook in drawer, that is what she tells people. She said she enjoys being on the Planning Commission, she sees this as a natural progression. Moline said she will put her whole heart in it.

Bezanson said besides government experience, does he have to admit he has a BA in economics. He said he also spend one semester in law school. Bezanson said he found out he didn't want to be a lawyer. He said he spent 25 years as superintendent for contractors; he has management experience and can be fairly sophisticated in dealing with problems. Bezanson said always dealing with someone else's money makes you conscience of it.

Channer said one of the things he prides himself on is if he doesn't know the answer he tries to find someone who does, he doesn't like when he calls the government and gets passed from one person to another. He said he likes the game of solving a problem, think he knows the answer and maybe he doesn't, find out what the right solution is. Channer said he tries to believe he has a sense of right and wrong, and when he makes a decision and make it quickly. He said in his position he has had to watch the public's money. Channer said he has had to be made to walk away from litigation, but he hates to lose money. He said he has relatively decent social skills.

Sell asked all three candidates Question Three as follows: One of the most significant action by the City Council is the adoption of the annual budget. How would you approach the budget and what do you think are some of the key factors that need to be considered when the Council reviews the budget.

Channer said with the limited small budget you have here, he thinks there are three things you have to look at, what are we required to do, obligated to do, and what are the creative ways we can do things. He said we are limited on things we can do, so it is good to have discussion and find ways to do things. Channer said he has looked at the budget and doesn't totally understand it, but he does understand how government works and knows it is not endless.

Moline said as far as budgeting, she has had the really good fortune of working for the chair of Ways and Means, and this is a glorious task we start early in the fall. She said everyone knows that in the last couple years we had significant cuts, so we cut fat and now we are cutting services. Moline said she doesn't see a lot of fat in our budget, she is interested in working on the budget committee, and she loves numbers and creative ways to solve problems.

Bezanson said as far as the budge, his taxes haven't gone up a significant amount. He

said his family owns rental property and they have taken a pounding on that. Bezanson said he would bring his experience, he has a skeptical eye. He said he would go through it piece by piece, line item by line item.

Sell asked all three candidates Question Four as follows: What issues are you most interested in pursuing or promoting as a City Council Member?

Bezanson said preserving open space. He said he lives on what he thought was a small lot in East Bethel. Bezanson said you couldn't see another house when he moved out here, now you can see lots. He said the other thing is he thinks we always have an ongoing fight with blight, he is not a peek over fence kind of guy, but when neighbor makes a complaint we need to look at it.

Channer said it is funny Bezanson mentioned blight, which is his pet peeve. He said you need to keep your areas clean that are supposed to be clean, keep your mess organized, and make citizens a partner in it instead of being in opposition. Channer said he talked to neighbors and they seem to listen. He said also one of the issues is to continue to look at what we have done with zoning and comp plan, we are in open space, the country but some day development is going to come to us and how we prepare for that is important to him. Channer said we need to build the infrastructure and let development come to us.

Moline said she is interested in maintaining a high quality of life. She said make sure we do smart development here because if you go to Isanti or Cambridge they have over built and are sitting on a record number of foreclosures, she thinks we need good planning, she doesn't think it is asking too much of people to work on that. Moline said we need to work on the blight on Hwy. 65, she doesn't know how to address that, ability to work on those things, She said the HRA offers low interest financing or grants for people, you need to plan for quality of life, for trailer parks and businesses and property.

Sell asked all three candidates Question Five as follows: What are the most important issues facing our community over the next year? The next five years? And Question Six as follows: What do you think the role of the City Council should be in addressing those issues? What do you think your role should be?

Moline said she really hopes we can maintain a good tax base here, and look less and less at the state for funding, also keeping property values up here. She said we want residents to want to invest money on their homes. Moline said a concern for her personally is she loves living here and loves the City, but if property value goes down, she asks herself should she do the repairs, what should she do. She said we need confidence in government and property values, so we start building and seeing those people come here.

Bezanson said as much as we have grown we still have a unique opportunity. He said when you look at the money other communities have spent; we still have open land we can do things with. Bezanson said that is a microcosm of what he sees as taking a long term view, look way down the road.

Channer said the most important issues over the year is the budget, and as things progress or hopefully not, with sewer he thinks that is going to affect the way we do things, how we develop and how we don't develop. He said how the citizenry looks at us it will all run together, as water and sewer comes in, the budget curves.

Channer said our role, as Council, we don't want to step beyond our means, but we also don't want to put our head in the sand. He said we talked about trying to be creative; we need to look at how little investments turn into big investments in time. Channer said he thinks it is the role of Council to do that, and he also thinks each Council Member has to look at it not only from own perspective, but beyond the little bubble look at other areas such as Coon Lake, he walks over there to see what it is like. He said you need to walk in someone else's shoes. Channer said the budget is how we spend our money and invest it.

Moline said our role is budget, budget, budget. She said she thinks as a group we need to get together and see how much we can expect from other agencies, it is almost like a lot of plans are up in the air again. Moline said we need to pick up the pieces and find out what we can do, we have to have a Plan A and Plan B. She said her role is to do her homework and work with the Council. Moline said there is a lot of flex in the country right now. She said money is what depends on how much you can plan. Moline said you need to continue to involve people at Town Hall meetings to find out what they want us to do. She said in five years she doesn't think there will be a whole bunch of funding out there. Moline said you have to work with what your resources are and what you do. Boyer said we don't get any state aid and we haven't gotten LGA in 12 years.

Bezanson said there has been a lot of talk about the budget, but you don't make huge adjustments on the budget. He said as I stated before, the thing he is most interested in is open space. Bezanson said he is also interested in clustered housing and conservation easements. He said he doesn't know where that went when he left the Council, but he thinks that has a lot of merit. Bezanson said if no one also feels that way, it goes nowhere. He said this is one of the ways to preserve open space and greenways. Bezanson said no one has ever said he is in favor of small lots. He said he thinks there are things we can look at for preserving open space.

Sell asked all three candidates Question Seven as follows: Some actions of a City Council are not popular. Describe a decision you made that was not popular, but one that you felt was the right one to make.

Bezanson said this was a decision we made on Council back in the old days. He asked the City Attorney if he violates data privacy to speak up. Bezanson said we had to fire a city employee for theft. He said this employee had a substantial position in the City, and if you think it is hot in the Council chambers tonight, you should have been there then. Bezanson said no one on the Council was going to address the issue. He said the employee was under investigation and he had admitted that he had done this and no one was going to bring up the resolution to suspend him without pay. Bezanson said he brought it up and the employee was removed.

Channer said along the theme of personnel, most unpopular issues involve this. He said he had a job applicant that had worked in the department before and had been cajoled to take a job somewhere else. Channer said several years later he wanted to come back and work for us. He said we had someone we were going to promote and they had to take a lateral. Channer said he had to make a decision to go against the union on this, and he had to make a decision to not have this person come back and work for us. He said the person we put in that position is still there 10 years later and doing a great job. Channer

said as a side bar the union steward told him he wouldn't have taken him back either. .

Moline said last fall we tried to initiate some major charter changes, to streamline government and cut the budget, some things we even thought not as efficient as they should be. She said but some people are not willing to move forward, we lost about 90% of the initiative; we got one small initiative passed that lost in the election. Moline said when people are ready for change, you need to wait for that to happen, and it happens all on itself. She said she was a manager in the mayor's office and had to do some very serious disciplines, had to do this as perfection. Moline said it was very difficult, when you have to work with them everyday.

Sell asked all three candidates Question Eight as follows: The City Council will have met in official session approximately 40 times in 2009 including special meetings, work sessions and meeting with City Commissions. In addition, substantial time is required to read background material in preparation for Council meetings. Would you have difficulty making this time commitment?

Moline said not at all. Like she said, she is retiring.

Bezanson said no, not at all.

Channer said maybe, no, he thinks he can work it. He said he has small kids, but they love to come to these things. He said he is a little less flexible but he thinks he can work this out.

Sell asked all three candidates Question Nine as follows: Are there any local issues that could place you in a conflict of interest situation (i.e. a situation in which you could financially benefit by Council action on a specific topic)?

Channer said no, just issues we deal with at MnDOT that he might have to abstain from.

Moline said none she is aware of.

Bezanson said he is not an active member in the church that made a serious mistake in not taking an offer from Council, so no.

Sell said before we end the interview, do you have any questions for us or is there anything you would like to add?

Bezanson asked do you always get out of here at this time, because if you are, Sell is doing a good job for you.

Channer said he has no questions. He said he likes working with you guys, if the role stays the same, fine.

Moline said it has been a pleasure meeting you all. She said she enjoys being on the Planning Commission. Moline said she hopes the Council seriously takes a look at her interest. She said she is retiring and will have a lot of time.

Voss asked, this is part of an answer you already responded to, the most significant thing the City has done in the past five six years, the focus is sewer and water. He said but the

bigger picture that got him involved six years ago is to make sure we have an established plan to move forward. Voss said we spent significant time working on our plan and he thinks we all feel very strong about our plan. He said it is still serving its purpose, but the question is how do you feel about decisions that were made in the past and looking forward how you would support to massage or revise the plan going forward.

Moline said she has been involved with this on the Planning Commission, and she thinks the phasing in our plan is a good plan. She said she would be concerned about the buy in for sewer and water for those that don't think they can afford it. Moline said phase one seems to be funded by the Met Council. She said we haven't been discussing plans at the Planning Commission lately, but she understand the issues at the Coon Lake. Moline said any plan can be modified based on conditions that change. She said if there are reasons the plan needs to be modified would need to look at it when it happens. Moline said we would have to take a look at the numbers. She said she has seen it, if it is financially feasible she thinks it is a go.

Bezanson said are we talking about the comp plan or sewer and water. He said we planned in the 80's and 90's to bring in sewer and water, and he was not a big supporter of sewer and water. Bezanson said if you are going down that road and it will support itself, his approach if he was sitting up there would be if it will stand alone and will not affect the general fund if it fails and the ability of the City to issue GO bonds, fine. He said but if it has the potential to raise the property taxes of those that are no where near it, or the bonding of City, he is going to be skeptical and ask many questions.

Channer said the back of his lot is $\frac{3}{4}$ of miles off the sewer and water line, in a subdivision with larger lots, but the potential is it may never get there while he is alive. He said at Coon Lake it will eventually become a necessity. Channer said currently at Coon Lake, we are not letting them put in drain fields, we are making them put in holding tanks, how long can we do that. He said there has to be a solution, but he doesn't know what it is Channer said he has heard from people that it is going to destroy property values. He said he came into the comp plan late, but it is going to change because circumstances change.

Bezanson said he is not sure you totally understand what he said. He said this is not a blanket vote no, but he is going to look at it very hard. Hunter said your answer was we had it in front of us before on a smaller scale and he wasn't in favor of it. Bezanson said if it works, then it is fine, He said but if it is millions of dollars, he would have to look hard at it.

Boyer asked if we were to nominate any of you, would you plan to run in November, because he thinks as an "incumbent" you would have an advantage. Moline asked how many openings would there be in November. Boyer said two Council openings and one Mayor. Channer said as it stands now, no, but who knows what would happen. Moline said as it stand now, she is not certain. She said if she was appointed now and she felt she was goo at it and could do it, she might run again. Bezanson said he doesn't think so, but he is not going to say no.

Bezanson said as a final statement, thanks for your service to the City, Council Member Klein, this had to be kind of a fun last Council meeting. Klein said yes, it has been.

Channer said whatever your decision is, he will be happy with it.

Moline said thanks for this opportunity and she hopes you get an opportunity to look at her packet of information and make a decision.

Voss said he would like to see what the straw vote is and then make a motion on it.

Voss made a motion to appoint Mr. Steven Channer to the position of Council Member for the City of East Bethel for the term ending December 31, 2010 and being sworn in on January 6, 2010, the next regularly scheduled City Council meeting. Paavola seconded; all in favor, motion carries.

Hunter said we were blessed to have had six applicants. He said he was glad he didn't have to go through this process; you were all a lot more qualified than he was when he first ran. Voss said we still have openings on various commissions.

Fire
Department
Meeting

Paavola said she attended the fire department meeting last week. She said it was very interesting. Paavola said normally they get done in an hour, hour and fifteen minutes. She said but at this meeting, they were talking about going through new training again. Paavola said the book they have to read is 845 pages. She said before attending these meetings, she didn't realize they work so hard for what they do and just to protect the City and residents. Paavola said we need to give them a Great Big That-A-Boy. She said they are doing a great job and are a great bunch of people.

Signal at 221st
and Hwy. 65

Paavola said the Road Commission meeting was also interesting. She said the discussion was the signalization of 221st at Hwy. 65. Paavola said the issue gets hairy. She said Kate Garwood was there from the County to explain some things. Paavola said even though the County has a grant to do this, we need to take a look at ways we can get this done sooner.

Happy
Holidays

Boyer said he wants to wish everyone a Happy Holiday.

Explorer
Program

Hunter said he has one thing to discuss about the fire department. He said he attended their explorer program. Hunter said they had more applicants then they could take. He said he was very impressed by the people running it. Hunter said this is a good way to promote our City and the Fire Department. He said this is done all with volunteer time, they are donating their time and he appreciates that.

Council
Member Klein

Voss said he wants to thank Anne, he will miss her. He said not just as a Council Member, but as a neighbor, our kids grew up together. He thanked Anne.

Hunter said he wants to tell Anne, she has been wonderful to work with. He said it is a wonderful thing to get voted in and you hit this position running. Hunter said he is saying this for himself and others in the community, thank you; you have made East Bethel a better place to live. Good luck.

Klein said she wants to wish everyone Happy Holidays, and if you ever get up to Pine City, come visit us. She said East Bethel is a great community, but we are moving on to a new part of our life. Klein said she doesn't say goodbye.

Adjourn

Klein said this is her final motion as a Council Member. **Klein made a motion to adjourn at 9:31 PM. Boyer seconded; all in favor, motion carries.**

Attest:

DRAFT



AC Meals on Wheels

Mercy Hospital
4050 Coon Rapids Blvd
Coon Rapids, MN 55433
763-236-8718

<http://www.acmealsonwheels.org>

December 10, 2009

Douglas Sell
East Bethel City Administrator
2241 221st Ave NE
East Bethel, MN 55011

Dear Mr Sell:

I am writing to you to request a letter of endorsement from the city of East Bethel to include with Anoka - Champlin Meals on Wheels' (ACMoW) application for Community Development Block Grant (CDBG) funds for 2010-2011. Your assistance last year was invaluable to our program and our community!

It has been 18 months since our expansion to cover East Bethel and we continue to serve and take in new referrals for Meals on Wheels Service in East Bethel and the surrounding area. Meals on Wheels clients benefit from not only a home-delivered, freshly prepared, nutritious meal Monday through Friday, but also a check-in to ensure their well-being. East Bethel residents – not only the seniors and those with disabilities that we serve - but also their families, benefit from this service.

ACMoW receives no Federal Title III funding and our meals are subsidized with community donations to make them affordable to our clients. It is local support and funding like the CDBG grant which will allow us to continue the program.

A letter of endorsement will help us as the HRA Trustees look at this year's funding requests. Please send a letter of endorsement on city letterhead to:

Anoka – Champlin Meals on Wheels
4050 Coon Rapids Blvd
Coon Rapids, MN 55433

Additionally, our fax number is 763-236-8038. If this could be done by January 12, 2010, we would greatly appreciate it. If you have any questions, please contact me at 763-236-8718 or office@anokachamplinmow.org.

Sincerely,

Elisabeth Shanley
Executive Director
Anoka – Champlin Meals on Wheels

Meals on Wheels: More than just a Meal!

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

RESOLUTION NO. 2010-01

**RESOLUTION SUPPORTING FUNDING OF THE
ANOKA-CHAMPLIN MEALS ON WHEELS PROGRAM
THROUGH THE ANOKA COUNTY CDBG PROGRAM**

WHEREAS, Anoka-Champlin Meals on Wheels Program is a valuable and vital service to the community that provides home delivered meals every weekday to seniors and persons with disabilities who are nutritionally at-risk and unable to prepare their own meals; and

WHEREAS, funding of this program is a combination of grants, donations and volunteer support; and

WHEREAS, Community Development Block Grant (CDBG) funding is an integral part of the funding scheme for this program; and

WHEREAS, the Anoka-Champlin Program has requested support from the City of East Bethel in its application for CDBG funding for the continued operation of Meals on Wheels in the City of East Bethel.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF EAST BETHEL, MINNESOTA THAT: the City Council supports the continued funding of the Anoka-Champlin Meals on Wheels program through the CDBG program administered by Anoka County.

Adopted this 6th day of January, 2010 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Greg Hunter, Mayor

ATTEST:

Douglas Sell, City Administrator

**CITY OF EAST BETHEL
PAID-ON-CALL FIREFIGHTERS'
MEDICAL REIMBURSEMENT PLAN**

Prepared by:



12900 - 63rd Avenue North
Maple Grove, MN 55369
Tele. 763-503-6620

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**ARTICLE I.
INTRODUCTION**

- 1.1 **Establishment.** The City of East Bethel (hereinafter the "Employer"), hereby establishes, effective October 1, 2009, the City of East Bethel Paid-On-Call Firefighters' Medical Reimbursement Plan (the "Plan").
- 1.2 **Grant.** The Employer has received the 2008 FEMA SAFER (Staffing for Adequate Fire and Emergency Response) grant part of which makes available up to \$1,000 per paid-on-call firefighter per year to reimburse medical expenses of paid-on-call firefighters and their eligible dependents.
- 1.3 **Purpose.** The purpose of the Plan is to provide certain Employees with an opportunity to receive reimbursement for Eligible Health Care Expenses as provided in this Plan. This Plan is a self-insured medical reimbursement plan within the meaning of Section 105 of the Code. It is the intention of the Employer that the benefits payable under this Plan be eligible for exclusion from the gross income of Participants as provided by Sections 105(b) and 106 of the Code.
- 1.4 **HIPAA Privacy and Security Rules.** Because the Employer administers the Plan and there are less than fifty (50) Participants in the Plan, this Plan is not a "covered entity" for purposes of the HIPAA privacy and security rules.
- 1.5 **Not ERISA Plan.** This Plan is not an employee welfare plan for purposes of ERISA because the Plan is a governmental plan within the meaning of Act. Sec. 3(32) of ERISA. Any resemblance of the Plan to an ERISA plan shall not bind the Plan to comply with ERISA.

ARTICLE II. DEFINITIONS

The following words and phrases are used in this Plan and shall have the meanings set forth in this Article unless a different meaning is clearly required by the context or is defined within an Article.

- 2.1 **Calendar Quarter** means three consecutive months defined as follows:
- (a) Quarter 1: October, November, December
 - (b) Quarter 2: January, February, March
 - (c) Quarter 3: April, May, June
 - (d) Quarter 4: July, August, September
- 2.2 **Claims Administrator** means the Employer.
- 2.3 **Code** means the Internal Revenue Code of 1986, as amended from time to time.
- 2.4 **Covered Individual** means a person, including a Participant, a Dependent of a Participant, a Spouse of a Participant, and any other person appropriately covered under the Plan.
- 2.5 **Dependent** means "Dependent" for purposes of Section 152 of the Code determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B).
- 2.6 **Effective Date** means the effective date of this Plan, which is October 1, 2009.
- 2.7 **Eligible Employee** means each Employee who has met, and continues to meet, the eligibility requirements of Section 3.1.
- 2.8 **Employee** means any person employed by the Employer on or after the Effective Date, except that it shall not include:
- (a) any self-employed individual as described in Section 401(c) of the Code;
 - (b) any employee included within a unit of employees covered by a collective bargaining unit unless such agreement expressly provides for coverage of the employee under this Plan;
 - (c) any employee who is a nonresident alien and receives no earned income from the Employer from sources within the United States; or
 - (d) any employee who is a leased employee as defined in Section 414(n)(2) of the Code.
- 2.9 **Employer** means the City of East Bethel.
- 2.10 **ERISA** means the Employee Retirement Income Security Act of 1974 and regulations thereunder, as amended from time to time. Plans sponsored by public sector entities (i.e., governmental entities) are not subject to ERISA.
- 2.11 **Employer Contribution** means a non-elective contribution made by the Employer on behalf of Participants in the Plan. The Employer Contribution is an amount that has not been actually or

constructively received by a Participant, and it is made available to Participants exclusively for reimbursement under the Plan.

2.12 **Entry Date** means the date on which an Employee satisfies the eligibility requirements stated in Section 3.1 and begins participation under Section 3.2.

2.13 **Health Care Expense** means an expense incurred by a Covered Individual for medical care to the maximum extent permitted by law, but only to the extent that the Covered Individual incurring the expense is not reimbursed for the expense through another source, including other insurance or other accident or health plan.

A Health Care Expense shall include medical care as defined in Section 213(d) of the Code as modified to the extent required by law. With respect to premiums for qualified long-term care insurance, the amount of such premium that will qualify as a Health Care Expense shall be limited to the portion that constitutes "eligible long-term care premiums" as defined in Section 213(d)(10) of the Code.

Notwithstanding the foregoing, if the Employer sponsors a cafeteria plan, Health Care Expense shall not include premiums that may be paid by Participants on a pre-tax basis in accordance with the terms of such cafeteria plan, which may include premiums for major medical coverage provided by the Employer and premiums for coverage under an insurance contract, health maintenance organization agreement, or other benefit agreement providing coverage issued on a non-group, individual basis.

A Health Care Expense is incurred at the time the medical care or service which gives rise to the expense is furnished.

2.14 **HIPAA** means the Health Insurance Portability and Accountability Act of 1996 and regulations thereunder, as amended from time to time.

2.15 **Managing Body** means the person or persons with authority to make decisions for the Employer.

2.16 **Participant** means an Employee who has become, and not ceased to be, a Participant pursuant to Article III. In addition, Participant includes persons "deemed" to be Participants under a specific provision of this Plan.

2.17 **Plan** means the City of East Bethel Paid-On-Call Firefighters' Medical Reimbursement Plan.

2.18 **Plan Administrator** means the entity, person or persons responsible for the Plan's administration as determined under Section 7.1.

2.19 **Plan Year** means the twelve (12) month period beginning on October 1 and ending on September 30. The records of the Plan will be kept based upon the Plan Year.

2.20 **Spouse** means an individual who is legally married to a Participant (and who is treated as a spouse under the Code).

**ARTICLE III.
ELIGIBILITY AND PARTICIPATION OF EMPLOYEES**

- 3.1 **Eligibility Requirements.** Each Employee who is classified by the Employer as a "paid-on-call firefighter" is eligible to participate in this Plan.
- 3.2 **Participant Status.** An Employee who has met the eligibility requirements described in Section 3.1 shall be a Participant as of the Employee's Entry Date.
- 3.3 **Conditions of Participation.** As a condition of participation and receipt of Benefits under the Plan, the Participant agrees to:
- (a) observe all Plan rules and regulations;
 - (b) consent to inquiries by the Plan Administrator with respect to any provider of services involved in a claim under the Plan;
 - (c) submit to the Employer all notifications, reports, bills, and other information that the Employer may reasonably require;
 - (d) agree to repay any overpayments or incorrect payments you receive through the Plan; and
 - (e) agree to provide required proof of documentation for eligible dependents within thirty (30) days of the request.

Failure to do so relieves the Plan, Plan Administrator and Employer from any and all obligations under the Plan.

- 3.4 **Termination of Participation.** A Participant shall cease to be a Participant under this Plan at midnight of the earliest of the following dates:
- (a) The date of the death of the Participant;
 - (b) The date of termination of the Participant's employment with the Employer;
 - (c) The date of the Participant's failure to meet the eligibility requirements of Section 3.1, as may be amended from time to time in accordance with Article VIII; or
 - (d) The date of termination of the Plan in accordance with Article VII.

Termination of participation under this Plan shall not prevent a former Participant from receiving continuation coverage required by applicable law.

- 3.5 **Continuation of Coverage.** Continued coverage shall be provided if it is required under, and in accordance with, the Consolidated Omnibus Budget Reconciliation Act of 1985 ("COBRA"), as amended, and, as reflected in the Public Health Services Act ("PHSA"), as amended. The Plan Administrator shall, within the parameters of the law, be responsible for the applicable continuation requirements.

**ARTICLE IV.
BENEFITS UNDER THE PLAN**

- 4.1 **Benefits.** The benefit available through this Plan consists of an eighty (80%) percent reimbursement for an incurred Health Care Expense, up to the maximum reimbursement indicated in Section 4.5.
- 4.2 **Claims for Reimbursement.** Claims for reimbursement under this Plan shall be made by completing a claim form and submitting such form to the Claims Administrator. The claim form shall require at least the following:
- (a) The amount, date, and nature of the expense;
 - (b) The name of the person or entity to which the expense was paid;
 - (c) The Participant's statement that the expense has not been reimbursed and that the Participant will not seek reimbursement under any other plan covering health benefits, and
 - (d) Such other information as the Claims Administrator may require.
- Such claim form shall be accompanied by bills, invoices, receipts, or other statements from an independent third party stating the Health Care Expense has been incurred and the amount of the expense.
- The Claims Administrator is entitled to rely on the information provided on the claim form in processing claims under this Plan. A claim must be submitted for payment within ninety (90) days from the date the Participant receives a bill or invoice for the Health Care Expense.
- 4.3 **Incurred Expenses.** To be reimbursable, the Participant must have incurred a Health Care Expense after his/her Entry Date. An expense is "incurred" when the Participant is provided with the care giving rise to the Health Care Expense, not when the service is billed or paid. Reimbursement shall not be made for future projected expenses.
- 4.4 **Timing of Reimbursement.** Benefits shall be paid with respect to Health Care Expenses (1) incurred during the Plan Year, and (2) timely submitted within a calendar quarter, by the 15th of the second month following such Calendar Quarter. For example, benefits for Health Care Expenses incurred in October through December, and submitted for reimbursement during that calendar Quarter, will be paid by February 15th.
- 4.5 **Maximum Reimbursement.** The maximum reimbursement a Participant may receive is \$250 per Calendar Quarter. The maximum reimbursement requirements apply to the Participant, Spouse, and Dependents on an aggregate basis, not an individual basis.
- 4.6 **Reimbursement Upon Termination of Participation.** If an individual ceases to be a Covered Individual, coverage shall cease (which means that reimbursements shall cease) unless benefits under the Plan are required to be continued under applicable law (and the Covered Individual complies with the statutory obligations necessary to elect and maintain continuation in the Plan). However, if coverage ceases, reimbursements for Health Care Expenses incurred before participation ceased will continue to be made in accordance with this Plan.
- 4.7 **Termination of Participation Because of Death.** Notwithstanding anything herein to the contrary, in the event a Participant's participation in the Plan terminates because of the

Participant's death, and the former Participant incurred a Health Care Expense prior to the Participant's death that would have been reimbursable but that has not been submitted for reimbursement, the deceased Participant's estate may submit such Health Care Expense for reimbursement in accordance with Section 4.2.

- 4.8 **Nondiscrimination.** This Plan is intended to be nondiscriminatory and to meet the requirements under applicable sections of the Code.
- 4.9 **Medical Support Orders.** Notwithstanding any provision of this Plan to the contrary this Plan shall recognize medical child support orders as required under applicable state law or under the Child Support Performance and Incentive Act of 1998. Participants involved in a divorce or child custody matter should be directed to have their legal counsel contact the Claims Administrator.
- 4.10 **Coordination with Other Plans.** To the extent a Covered Individual is covered under any other health plan (including a medical reimbursement program under a cafeteria plan), and the Covered Individual incurs an eligible Health Care Expense that is also eligible for reimbursement under the other plan, the other plan pays first unless otherwise required by law.
- 4.11 **Further Limitations on Benefits.**
- (a) This Plan does not cover expenses incurred for any loss caused by or resulting from injury or disease for which benefits are payable under any worker's compensation law or other employer, union, association or governmental sponsored group insurance plan.
 - (b) This Plan does not cover expenses incurred for any loss caused by or resulting from injury or disease for which benefits are received by the Participant, the Participant's Spouse or the Participant's Dependent under any health and accident insurance policy or program, whether or not premiums are paid by the Employer or by the Participant, the Participant's Spouse or the Participant's Dependent child.
 - (c) Amounts reimbursed under a dependent care assistance program described in Section 129 of the Code shall not be reimbursed under this Plan.

**ARTICLE V.
CONTRIBUTIONS**

- 5.1 **Employer Contributions.** The Employer shall make contributions as necessary to reimburse claims for Health Care Expenses payable by the Plan. Notwithstanding the foregoing, Employer Contributions are subject to available grant funding as described in Section 1.2. If a grant payment is not received, no Employer Contributions shall be made to the Plan. Eligible Health Care Expenses shall be reimbursed in the order submitted until available Employer Contributions have been exhausted.
- 5.2 **No Employee Contributions.** Except for contributions required for continuation coverage, no contributions other than Employer Contributions are required nor will they be accepted.
- 5.3 **No Trust.** Nothing in this Plan is intended to require the establishment of a trust. The benefits paid under this Plan are paid from grant proceeds held as part of the Employer's general assets.

**ARTICLE VI.
CLAIMS DETERMINATIONS**

- 6.1 **Timing.** The Claims Administrator shall make a determination on claims submitted for reimbursement within thirty (30) days of receipt unless such determination cannot be made due to reasons beyond the control of the Plan. In this case, a fifteen (15) day extension is available if the Participant is notified of the extension with the initial thirty (30) day period. If a determination on a claim cannot be made because the Participation did not provide sufficient information, the Participant has forty-five (45) days from receipt of the request to provide such information.
- 6.2 **Finality.** Decisions made by the Claims Administrator are final and binding.

**ARTICLE VII.
PLAN ADMINISTRATION**

7.1 Plan Administrator.

- (a) The Plan Administrator shall be responsible for the general supervision of the Plan and shall have authority to control and manage the operation and administration of the Plan. The Plan Administrator shall perform any and all acts necessary or appropriate for the proper management and administration of the Plan.
- (b) The Employer shall be the Plan Administrator unless its Managing Body designates a person or persons other than the Employer to be the Plan Administrator. The Employer shall also be the Plan Administrator if the person or persons so designated cease to be the Plan Administrator.
- (c) The Plan Administrator may designate an individual or entity to act on its behalf with respect to certain powers, duties, and/or responsibilities regarding the operation and administration of this Plan.

7.2 Agent for Service of Legal Process. The agent for service of legal process for the Plan is the Plan Administrator.

7.3 Allocation of Responsibility for Administration. The Plan Administrator shall have the sole responsibility for the administration of this Plan as is specifically described in this Plan. The designated representatives of the Plan Administrator shall have only those specific powers, duties, responsibilities, and obligations as are specifically given to them under this Plan. The Plan Administrator warrants that any directions given, information furnished, or action taken by it shall be in accordance with the provisions of the Plan authorizing or providing for such direction, information or action. It is intended under this Plan that the Plan Administrator shall be responsible for the proper exercise of its own powers, duties, responsibilities, and obligations under this Plan and shall not be responsible for any act or failure to act of another Employee of the Employer. Neither the Plan Administrator (including any designee), nor the Employer makes any guarantee to any Participant in any manner for any loss or other event because of the Participant's participation in this Plan.

7.4 Rules and Decisions. Except as otherwise specifically provided in the Plan, the Plan Administrator may adopt such rules and procedures as it deems necessary, desirable, or appropriate. All rules and decisions of the Plan Administrator shall be uniformly and consistently applied to all Participants in similar circumstances. When making a determination or calculation, the Plan Administrator shall be entitled to rely upon information furnished by a Participant, the Employer, or legal counsel, or other entity acting on behalf of the Employer or Plan Administrator.

7.5 Records and Reports. The Plan Administrator shall be responsible for complying with all reporting, filing and disclosure requirements for the Plan.

7.6 Authorization of Benefit Payments. The Plan Administrator (or the Claims Administrator as its designee) shall determine all benefits which are to be paid, pursuant to the provisions of the Plan.

7.7 Other Powers and Duties of the Administrator. The Plan Administrator shall also have such other duties and powers as may be necessary to discharge its duties under the Plan including but not limited to the following:

- (a) Discretion to construe and interpret the Plan in a non-discriminatory manner, to decide all questions of eligibility and to determine all questions arising in the administration and application of the Plan;
- (b) To receive from the Employer and from Participants such information as shall be necessary for the proper administration of the Plan;
- (c) To furnish the Employer, upon request, such annual reports with respect to the administration of the Plan as are reasonable and appropriate; and
- (d) To appoint individuals to assist in the administration of the Plan and any other agents the Plan Administrator deems advisable including legal and actuarial counsel. The Plan Administrator shall not have the power to add to, subtract from, or modify any of the terms of the Plan, to change or add to any benefits provided by the Plan, or to waive or fail to apply any requirements of eligibility for a benefit under this Plan.

**ARTICLE VIII.
PLAN AMENDMENT AND TERMINATION**

- 8.1 **Amendment by Employer.** The Employer reserves the right to amend, alter, or wholly revise this Plan, prospectively or retrospectively, at any time by the action of its Managing Body, and the interest of each Participant is subject to the powers so reserved. The Employer expressly may amend, alter or wholly revise this Plan if it determines it necessary or desirable, with or without retroactive effect, to comply with the law. Such changes shall not affect any right to benefits that accrued prior to such amendments provided contributions are available as described in Article V.
- 8.2 **Employer's Right to Terminate.** Although the Employer expects the Plan to be maintained for an indefinite time, the Employer reserves the right to terminate the Plan or any portion of the Plan at any time. In the event of the dissolution, merger, consolidation, or reorganization of the Employer, the Plan shall terminate unless the Plan is continued by a successor to the Employer in accordance with the resolution of such successor's Managing Body. Such termination shall not affect any right to benefits that accrued prior to such termination provided contributions are available as described in Article V.
- 8.3 **Written Notification.** Should the Plan be amended or terminated, the Participants shall be provided prompt written notification.

**ARTICLE IX.
GENERAL PROVISIONS**

- 9.1 **Non-Alienation of Benefits.** Benefits payable under this Plan shall not be subject to anticipation, alienation, sale, transfer, execution, or levy of any kind either voluntary or involuntary, including any such liability which is for alimony or other payments for the support of a spouse or former spouse, or for any other relative of the Participant, prior to actually being received by the person entitled to the benefit under the terms of the Plan, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge or otherwise dispose of any right to benefits payable under the Plan shall be void. The Employer, Plan Administrator and/or Claims Administrator shall not in any manner be made liable for, or subject to, the debts, contracts, liabilities, engagements or torts of any person entitled to benefits under the Plan.
- 9.2 **Action by Employer.** Whenever the Employer, under the terms of this Plan, is permitted or required to do or perform any act or matter or thing, it shall be done and performed by the Managing Body of the Employer or such representatives of the Employer as the Managing Body may designate.
- 9.3 **No Guarantee of Tax Consequences.** Notwithstanding any provision in this Plan to the contrary, this Plan makes no commitment or guarantee that any amounts paid to or on behalf of a Participant under this Plan will be excludable from the Participant's gross income for purposes of applicable federal, state, or local income taxes. It shall be the obligation of each Participant to determine whether each payment is excludable from the Participant's gross income for applicable federal, state, or local income tax purposes, and to notify the Plan Administrator if the Participant has reason to believe that any such payment is not so excludable.
- 9.4 **Governing Law.** This Plan shall be construed and enforced according to the laws of Minnesota except to the extent preempted by federal law.
- 9.5 **Family and Medical Leave Act of 1993 ("FMLA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with FMLA, to the extent the Employer is subject to such law.
- 9.6 **Newborns' and Mothers' Health Protection Act ("NMHPA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with NMHPA.
- 9.7 **Women's Health and Cancer Rights Act of 1998 ("WHCRA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with WHCRA.
- 9.8 **Genetic Information Nondiscrimination Act of 2008 ("GINA").** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with GINA.
- 9.9 **Children's Health Insurance Program Reauthorization Act of 2009 ("CHIPRA").** Notwithstanding any provision of the Plan to the contrary, the Plan shall be operated and maintained in a manner consistent with CHIPRA.
- 9.10 **Mental Health Parity and Equity Act of 2008 ("MHPEA").** Notwithstanding any provision of the Plan to the contrary, the Plan shall be operated and maintained in a manner consistent with the MHPEA.

- 9.11 **Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”).** Notwithstanding any provision of this Plan to the contrary, this Plan shall be operated and maintained in a manner consistent with USERRA, to the extent the Employer is subject to such law, and the Plan Administrator shall, within the parameters of the law, establish uniform policies by which to provide such continuation coverage required by USERRA.
- 9.12 **Plan Not a Contract of Employment.** The Plan is not an employment agreement and does not assure the continued employment of any Employee or Participant for any period of time. Nothing contained in the Plan shall interfere with the Employer's right to discharge an Employee or Participant at any time, regardless of the effect such discharge may have upon the individual as a Participant in this Plan.
- 9.13 **Erroneous Payments.** If the Plan makes a payment for benefits in excess of the benefits required by the Plan or makes a payment to or on behalf of an individual who is not currently covered by the Plan, the Plan shall be entitled to recover such erroneous payment from the recipient thereof.
- 9.14 **Medicare Secondary Payer.** The Plan shall comply with the Medicare secondary payer rules found in 42 U.S.C. § 1395y. In general, the Plan shall pay benefits primary to Medicare if any one of the following conditions is satisfied: (a) the Employer employed twenty (20) or more employees for each working day in at least twenty (20) weeks in either the calendar year in which the claim is made or the preceding calendar year, the Participant is employed by the Employer, and the Participant is actually covered by Medicare by reason of obtaining the age of 65; (b) the Employer employed one hundred (100) or more employees on at least fifty percent (50%) of its regular business days during the calendar year preceding the year in which the claim was made, the Participant is employed by the Employer, and the Participant is actually covered by Medicare by reason of disability; and (c) the Participant is entitled to Medicare by reason of end stage renal disease and the claim is made during the twelve (12) month period beginning in the first month in which such Participant is entitled to benefits under Medicare (regardless of whether he/she applies for such benefits). In all other cases, the Plan shall pay benefits secondary to Medicare.
- 9.15 **Medicare Part D.** The Plan shall cooperate with Medicare Part D prescription drug plans (and Covered Individuals who are enrolled in such plans) with respect to coordination of benefits between the Plan and the Medicare Part D plan, including the provision of information to the Medicare Part D plan (or the Covered Individuals) regarding the benefits provided under the Plan for costs covered by the Medicare Part D plan. Covered Individuals enrolled in Medicare Part D plans shall cooperate with the Plan so that the Plan may perform its obligations under this subsection.
- 9.16 **Certificates of Creditable Coverage.** When coverage terminates, or upon request by a Covered Individual during coverage or within two (2) years of termination of coverage under this Plan, Covered Individuals will be provided with a certification of creditable coverage by the Plan Administrator (or its designee). A request for a certification of creditable coverage should be directed to the Plan Administrator. Upon request, the Plan Administrator (or its designee) will issue the certification of creditable coverage as soon as reasonably possible.

IN WITNESS WHEREOF, the parties hereto have executed this Plan as of the effective date set forth above.

Dated: _____

CITY OF EAST BETHEL

By: _____

Greg Hunter

Its: Mayor

By: _____

Douglas Sell

Its: City Administrator

By: _____

Tammy Schutta

Its: Asst. City Administrator/HR Director

~~Health Flexible Spending Account for Paid-On-Call Firefighters~~
Paid-On-Call Firefighters' Medical Reimbursement Plan

Purpose

The 2008 FEMA SAFER Grant provides an opportunity for the City of East Bethel to provide matching funds of up to \$1,000 per Plan Year for medical expenses for paid-on-call firefighters and their eligible dependents. The City of East Bethel will make these funds available through employer contributions to a ~~Health Flexible Spending Account~~ Medical Reimbursement Plan for paid-on-call firefighters.

The ~~Health Care Flexible Spending Account (Health FSA)~~ Medical Reimbursement Plan is to provide paid-on-call firefighters with the option of being reimbursed for eligible health expenses. The ~~Health FSA~~ Medical Reimbursement Plan is intended to qualify as a medical reimbursement plan under Section 105 of the IRS Code so that payments received pursuant to the Plan are excludable from the gross income of the Participant under Section 105(b) of the IRS Code.

Scope

This procedure applies to all paid-on-call firefighters.

Policy

It is the intent of the City of East Bethel to provide a ~~health flexible spending account~~ medical reimbursement plan for paid-on-call firefighters and their eligible dependents through employer contributions, subject to available funding.

Definitions

Unless otherwise indicated, the following words and terms have meanings indicated below:

Dependents: Eligible dependents are defined as a lawful spouse; unmarried children up to the age of 19 or to age 24 if a full-time student, by birth, placed for adoption, legally adopted, stepchild, or foster child for whom the employee provides more than 50% of support.

~~Flexible Spending Account~~ Medical Reimbursement Plan: ~~An account~~ A plan to be used to reimburse for eligible health care expenses for paid-on-call firefighters and their dependents that are not reimbursed by insurance.

Matching Funds: The funding will be provided at an 80/20 match ratio up to \$1,000 per Plan Year (up to \$250 per quarter), subject to available funding. The City will reimburse up to 80%. The paid-on-call firefighter will be responsible for 20%.

Plan Year: October 1 – September 30.

Quarters: A quarter shall be defined as follows:

Quarter 1 October, November, December

Quarter 2	January, February, March
Quarter 3	April, May, June
Quarter 4	July, August, September

Pre-tax Deduction: Deducting the health insurance premium from your paycheck before taxes (pre-tax). This reduces your taxable income, therefore reducing the taxes you owe.

Post-tax Deduction: The health insurance premium deductions occur after the tax is calculated and deducted.

[Additional definitions are listed in the Plan Document under Article II Definitions.](#)

Guidelines

- A. Coverage becomes effective on the first day of the month following date of hire.
- B. Paid-on-call firefighters must meet minimum qualifications to qualify for the City's contribution to a ~~health flexible spending~~ [medical reimbursement](#) account. This includes 30% of calls.
- C. The City of East Bethel reserves the ability to investigate, implement, and design plan options for a ~~Health Flexible Spending Account Plan~~ [Medical Reimbursement Plan](#).
- D. The 2008 SAFER Grant will provide \$30,000 per year for health insurance costs. The City of East Bethel will contribute up to a \$1,000 per Plan Year (up to \$250 per quarter) to a ~~health flexible spending~~ [medical reimbursement](#) account for the paid-on-call firefighters and their eligible dependents based on available funding. Quarterly, ~~City contributions will be deposited to a health flexible spending account on the 15th of month following the end of a quarter~~ [the City will make contributions as necessary to reimburse claims for Health Care Expenses payable by the Plan.](#)
- E. Paid-on-call firefighters will complete a Reimbursement Claim Form to be reimbursed with matching funds (80/20 match ratio) for medical expenses (i.e. if the medical expense equals \$100, the City will reimburse up to 80% or \$80 depending on available funding. Paid-on-call firefighters will be responsible for 20%). Reimbursement Claim Forms are due the 15th of the month following the end of a quarter. [Reimbursement will be paid by the 15th of the second month \(i.e. February 15th\).](#)
- F. ~~FSA Account and Forfeitures:~~ [Medical Reimbursement Plan](#): You may submit claims quarterly through the end of the ~~Claims Run-out Period~~ [Plan Year](#). Any balance remaining in your account after the close of the ~~Claims Run-out Period~~ [Plan Year](#) cannot be paid to you or carried forward into the next Plan Year.

- G. Coverage under the ~~health flexible spending account~~ [Medical Reimbursement Plan](#) will end on the last day of employment, or at the time a firefighter no longer meets the eligibility requirements.
- H. If your employment terminates or you take an unpaid leave of absence, eligible expenses incurred prior to your separation will be reimbursed up the amount remaining in your ~~FSA~~ [account](#).
- I. Detailed information regarding the available Plan is provided in the Plan description materials, available in the Human Resources office.

Submitting ~~Health FSA~~ Reimbursement Claims

In order to be reimbursed, eligible reimbursement account expenses must have been incurred during the Plan Year. Expenses are considered incurred on the date the services were provided. You may not receive advance reimbursement for future or projected expenses. Eligible health care claims will be reimbursed with matching funds (80/20) through a City Contribution up to a \$1,000 (\$250 quarterly) ~~to a Flexible Spending~~ [through a Medical Reimbursement Account](#).

You request reimbursement from ~~your health FSA~~ [the Medical Reimbursement Plan](#) by submitting a claim form and documentation showing the amount, date the expense was incurred, nature of the expense and the name of the provider. You must include bills, invoices, receipts, or other statements from an independent third party verifying expenses. In addition, you must certify that the expense has not been reimbursed and that you will not seek reimbursement under any other plan. To be reimbursed for health care expenses, if the expense is covered by medical insurance, you must first submit the expenses to your insurance company to obtain whatever reimbursement is available from that source.

The Claims Administrator will make a determination on claims submitted for reimbursement within 30 days of receipt unless a determination cannot be made due to reasons beyond the control of the Claims Administrator.

Eligible Health Care Expenses

You may use ~~your Health FSA~~ [the Medical Reimbursement Plan](#) to be reimbursed for most of the “out-of-pocket” expenses you incur for medical care.

Medical expenses that are reimbursed by insurance, insurance premiums and expenses for long-term care **are not** eligible. Insurance premiums your spouse pays through his/her employer **will not be** reimbursed through this account. Expenses for which you are reimbursed through ~~your FSA~~ [the Medical Reimbursement Plan](#) **may not** be claimed as deductions for income tax purposes.

Allowable expenses for medical care include:

- Medical and dental expenses which are covered but not paid by insurance (deductible amounts paid before benefits begin and the percentage of charges not covered)

- Vision and hearing expenses including examinations, eyeglasses, contact lenses, laser eye surgery, hearing aids and seeing-eye dog
- Fees paid to doctors, chiropractors and hospitals
- Dental care including orthodontia
- Routine physical examinations, x-rays and lab fees
- Prescription drugs including insulin and birth control pills
- Non-prescription over-the-counter (OTC) drugs taken for a medical condition **excluding** toiletries (e.g. toothpaste), cosmetics (e.g. face cream) and dietary supplements taken for general health reasons (e.g. vitamins).
- Special equipment bought or rented because of a physical problem (wheelchairs, crutches, etc.)
- Ambulance service and other transportation costs necessary to receive medical care.

Reimbursement for Health Insurance Premiums

For paid-on-call firefighters that would not have medical expenses to submit for the ~~Health Flexible Spending Account~~ [the Medical Reimbursement Plan](#), the City of East Bethel would reimburse up to \$1000 per Plan Year (up to \$250 per quarter) for health insurance premiums based on available funding. The paid-on-call firefighter must submit proof of prior payment of the premiums. If the premiums were paid with pre-tax dollars, the reimbursement would be a taxable benefit to the paid-on-call firefighter. If the premiums were paid with post-tax dollars, the reimbursement will be a tax free benefit.

Tax Statement - W2s

An employers and/or employee's contribution to a Health Savings Account needs to be reported on the employee's W2 in Box 14 labeled "**Other**", using Code **W**. This is in place so an individual cannot itemize medical and dental expenses already reimbursed through a health savings account on IRS Form 1040, Schedule A – Itemized Deductions. Beginning with the 2010 Tax Statement, if a firefighter participated in the City's Health Flexible Spending Account, Code W will be added to Box 14 of the W2.

Open Enrollment Period

Each year of the Safer Grant, you will have the opportunity to (re-)enroll in the Plan. Medical Reimbursement Plan elections do not carry forward from one year to the next. Elections must be in writing on the form provided and received prior to the first day of the period of coverage.

Paid-On-Call Firefighters' Medical Reimbursement Plan

Purpose

The 2008 FEMA SAFER Grant provides an opportunity for the City of East Bethel to provide matching funds of up to \$1,000 per Plan Year for medical expenses for paid-on-call firefighters and their eligible dependents. The City of East Bethel will make these funds available through employer contributions to a Medical Reimbursement Plan for paid-on-call firefighters.

The Medical Reimbursement Plan is to provide paid-on-call firefighters with the option of being reimbursed for eligible health expenses. The Medical Reimbursement Plan is intended to qualify as a medical reimbursement plan under Section 105 of the IRS Code so that payments received pursuant to the Plan are excludable from the gross income of the Participant under Section 105(b) of the IRS Code.

Scope

This procedure applies to all paid-on-call firefighters.

Policy

It is the intent of the City of East Bethel to provide a medical reimbursement plan for paid-on-call firefighters and their eligible dependents through employer contributions, subject to available funding.

Definitions

Unless otherwise indicated, the following words and terms have meanings indicated below:

Dependents: Eligible dependents are defined as a lawful spouse; unmarried children up to the age of 19 or to age 24 if a full-time student, by birth, placed for adoption, legally adopted, stepchild, or foster child for whom the employee provides more than 50% of support.

Medical Reimbursement Plan: A plan to be used to reimburse for eligible health care expenses for paid-on-call firefighters and their dependents that are not reimbursed by insurance.

Matching Funds: The funding will be provided at an 80/20 match ratio up to \$1,000 per Plan Year (up to \$250 per quarter), subject to available funding. The City will reimburse up to 80%. The paid-on-call firefighter will be responsible for 20%.

Plan Year: October 1 – September 30.

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Quarter 1	October, November, December
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Pre-tax Deduction: Deducting the health insurance premium from your paycheck before taxes (pre-tax). This reduces your taxable income, therefore reducing the taxes you owe.

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Additional definitions are listed in the Plan Document under Article II Definitions.

Guidelines

- A. Coverage becomes effective on the first day of the month following date of hire.
- B. Paid-on-call firefighters must meet minimum qualifications to qualify for the City's contribution to a medical reimbursement account. This includes 30% of calls.
- C. The City of East Bethel reserves the ability to investigate, implement, and design plan options for a Medical Reimbursement Plan.
- D. The City of East Bethel will contribute up to a \$1,000 per Plan Year (up to \$250 per quarter) to a medical reimbursement account for the paid-on-call firefighters and their eligible dependents based on available funding. Quarterly, the City will make contributions as necessary to reimburse claims for Health Care Expenses payable by the Plan.
- E. Paid-on-call firefighters will complete a Reimbursement Claim Form to be reimbursed with matching funds (80/20 match ratio) for medical expenses (i.e. if the medical expense equals \$100, the City will reimburse up to 80% or \$80 depending on available funding. Paid-on-call firefighters will be responsible for 20%). Reimbursement Claim Forms are due the 15th of the month following the end of a quarter. Reimbursement will be paid by the 15th of the second month (i.e. February 15th).
- F. Medical Reimbursement Plan: You may submit claims quarterly through the end of the Plan Year. Any balance remaining in your account after the close of the Plan Year cannot be paid to you or carried forward into the next Plan Year.
- G. Coverage under the Medical Reimbursement Plan will end on the last day of employment, or at the time a firefighter no longer meets the eligibility requirements.
- H. If your employment terminates or you take an unpaid leave of absence, eligible expenses incurred prior to your separation will be reimbursed up the amount remaining in your account.

- I. Detailed information regarding the available Plan is provided in the Plan description materials, available in the Human Resources office.

Submitting Reimbursement Claims

In order to be reimbursed, eligible reimbursement account expenses must have been incurred during the Plan Year. Expenses are considered incurred on the date the services were provided. You may not receive advance reimbursement for future or projected expenses. Eligible health care claims will be reimbursed with matching funds (80/20) through a City Contribution up to a \$1,000 (\$250 quarterly) through a Medical Reimbursement Account.

You request reimbursement from the Medical Reimbursement Plan by submitting a claim form and documentation showing the amount, date the expense was incurred, nature of the expense and the name of the provider. You must include bills, invoices, receipts, or other statements from an independent third party verifying expenses. In addition, you must certify that the expense has not been reimbursed and that you will not seek reimbursement under any other plan. To be reimbursed for health care expenses, if the expense is covered by medical insurance, you must first submit the expenses to your insurance company to obtain whatever reimbursement is available from that source.

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You may use the Medical Reimbursement Plan to be reimbursed for most of the “out-of-pocket” expenses you incur for medical care.

Medical expenses that are reimbursed by insurance, insurance premiums and expenses for long-term care **are not** eligible. Insurance premiums your spouse pays through his/her employer **will not be** reimbursed through this account. Expenses for which you are reimbursed through the Medical Reimbursement Plan **may not** be claimed as deductions for income tax purposes.

Allowable expenses for medical care include:

- Medical and dental expenses which are covered but not paid by insurance (deductible amounts paid before benefits begin and the percentage of charges not covered)
- Vision and hearing expenses including examinations, eyeglasses, contact lenses, laser eye surgery, hearing aids and seeing-eye dog
- Fees paid to doctors, chiropractors and hospitals
- Dental care including orthodontia
- Routine physical examinations, x-rays and lab fees
- Prescription drugs including insulin and birth control pills
- Non-prescription over-the-counter (OTC) drugs taken for a medical condition **excluding** toiletries (e.g. toothpaste), cosmetics (e.g. face cream) and dietary supplements taken for general health reasons (e.g. vitamins).

- Special equipment bought or rented because of a physical problem (wheelchairs, crutches, etc.)
- Ambulance service and other transportation costs necessary to receive medical care.

Reimbursement for Health Insurance Premiums

For paid-on-call firefighters that would not have medical expenses to submit for the the Medical Reimbursement Plan, the City of East Bethel would reimburse up to \$1000 per Plan Year (up to \$250 per quarter) for health insurance premiums based on available funding. The paid-on-call firefighter must submit proof of prior payment of the premiums. If the premiums were paid with pre-tax dollars, the reimbursement would be a taxable benefit to the paid-on-call firefighter. If the premiums were paid with post-tax dollars, the reimbursement will be a tax free benefit.

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An employers and/or employee's contribution to a Health Savings Account needs to be reported on the employee's W2 in Box 14 labeled "**Other**", using Code **W**. This is in place so an individual cannot itemize medical and dental expenses already reimbursed through a health savings account on IRS Form 1040, Schedule A – Itemized Deductions. Beginning with the 2010 Tax Statement, if a firefighter participated in the City's Health Flexible Spending Account, Code W will be added to Box 14 of the W2.

Open Enrollment Period

Each year of the Safer Grant, you will have the opportunity to (re-)enroll in the Plan. Medical Reimbursement Plan elections do not carry forward from one year to the next. Elections must be in writing on the form provided and received prior to the first day of the period of coverage.

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

RESOLUTION NO. 2010 -02

RESOLUTION OF SUPPORT FOR HIGH SPEED BROADBAND CONNECTIVITY

WHEREAS, Anoka County has embarked on a project to determine the interest in and needs for high speed broadband connectivity in Anoka County; and

WHEREAS, there are increasing educational, economic, and community benefits to increased high speed connectivity; and

WHEREAS, the City of East Bethel supports submission of a federal grant to secure funding to implement the broadband vision; and

WHEREAS, the City of East Bethel recognizes that broadband through optical fiber will be a long-term benefit to all citizens.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EAST BETHEL, MINNESOTA THAT: City of East Bethel Supports the effort of Anoka County to develop a broadband vision and solicit public/private partnerships through a Request for Proposal process.

Adopted this 6th day of January, 2010 by the City Council of the City of East Bethel.

CITY OF EAST BETHEL

Greg Hunter, Mayor

ATTEST:

Douglas Sell, City Administrator

AGREEMENT FOR RESIDENTIAL RECYCLING PROGRAM

THIS AGREEMENT made and entered into on the 1st day of January, 2010, notwithstanding the date of the signatures of the parties, between the COUNTY OF ANOKA, State of Minnesota, hereinafter referred to as the "COUNTY", and the CITY OF EAST BETHEL, hereinafter referred to as the "MUNICIPALITY".

WITNESSETH:

WHEREAS, Anoka County will receive \$411,512 in funding from the Solid Waste Management Coordinating Board and the State of Minnesota pursuant to Minn. Stat. § 115A.557 (hereinafter "SCORE funds") prior to the effective date of this Agreement; and

WHEREAS, Anoka County anticipates receiving an additional \$411,511 in SCORE funds in the spring of 2010; and

WHEREAS, the County wishes to assist the Municipality in meeting recycling goals established by the Anoka County Board of Commissioners by providing said SCORE funds to cities and townships in the County for solid waste recycling programs.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained in this Agreement, the parties mutually agree to the following terms and conditions:

1. **PURPOSE.** The purpose of this Agreement is to provide for cooperation between the County and the Municipality to implement solid waste recycling programs in the Municipality.
2. **TERM.** The term of this Agreement is from January 1, 2010 through December 31, 2010, unless earlier terminated as provided herein.
3. **DEFINITIONS.**
 - a. "Problem material" shall have the meaning set forth in Minn. Stat. § 115A.03, subdivision 24a.
 - b. "Multi-unit households" means households within apartment complexes, condominiums, townhomes, mobile homes and senior housing complexes.
 - c. "Opportunity to recycle" means providing recycling and curbside pickup or collection centers for recyclable materials as required by Minn. Stat. § 115A.552.
 - d. "Recycling" means the process of collecting and preparing recyclable materials and reusing the materials in their original form or using them in manufacturing processes that do not cause the destruction of recyclable materials in a manner that precludes further use.
 - e. "Recyclable materials" means materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, fluorescent lamps, major appliances and vehicle batteries.

- f. Refuse derived fuel or other material that is destroyed by incineration is not a recyclable material.
- g. "Yard waste" shall have the meaning set forth in Minn. Stat. § 115A.03, subdivision 38.

4. **PROGRAM.** The Municipality shall develop and implement a residential solid waste recycling program adequate to meet the Municipality's annual recycling goal of 1,061 tons of recyclable materials as established by the County. The Municipality shall ensure that the recyclable materials collected are delivered to processors or end markets for recycling.

- a. The Municipal recycling program shall include the following components:
 - i. Each household (including multi-unit households) in the Municipality shall have the opportunity to recycle at least four broad types of materials, such as paper, glass, plastic, metal and textiles.
 - ii. The recycling program shall be operated in compliance with all applicable federal, state, and local laws, ordinances, rules and regulations.
 - iii. The Municipality shall implement a public information program that contains at least the following components:
 - (1) One promotion is to be mailed to each household focused exclusively on the Municipality's recycling program;
 - (2) One promotion advertising recycling opportunities available for residents is to be included in the Municipality's newsletter or local newspaper; and
 - (3) Two community presentations are to be given on recycling.The public information components listed above must promote the focused recyclable material of the year as specified by the County. The County will provide the Municipality with background material on the focused recyclable material of the year.
 - iv. The Municipality, on an ongoing basis, shall identify new residents and provide detailed information on the recycling opportunities available to these new residents.
- b. If the Municipality's recycling program did not achieve the Municipality's recycling goals as established by the County for the prior calendar year, the Municipality shall prepare and submit to the County by March 31, 2010, a plan acceptable to County that is designed to achieve the recycling goals set forth in this Agreement.

5. **REPORTING.** The Municipality shall submit the following reports semiannually to the County no later than July 20, 2010 and January 20, 2011:

- a. An accounting of the amount of waste which has been recycled as a result of the Municipality's activities and the efforts of other community programs, redemption centers and drop-off centers. For recycling programs, the Municipality shall certify the number of tons of each recyclable material which has been collected and the number of tons of each recyclable material which has been marketed. For recycling programs run by other persons or entities, the Municipality shall also

provide documentation on forms provided by the County showing the tons of materials that were recycled by the Municipality's residents through these other programs. The Municipality shall keep detailed records documenting the disposition of all recyclable materials collected pursuant to this agreement. The Municipality shall also report the number of cubic yards or tons of yard waste collected for composting or landspreading, together with a description of the methodology used for calculations. Any other material removed from the waste stream by the Municipality, i.e. tires and used oil, shall also be reported separately.

- b. Information regarding any revenue received from sources other than the County for the Municipality's recycling programs.
- c. Copies of all promotional materials that have been prepared by the Municipality during the term of this Agreement to promote its recycling programs.

The Municipality agrees to furnish the County with additional reports in form and at frequencies requested by the County for financial evaluation, program management purposes, and reporting to the State of Minnesota.

- 6. **BILLING AND PAYMENT PROCEDURE.** The Municipality shall submit itemized invoices semiannually to the County for abatement activities no later than July 20, 2010 and January 20, 2011. Costs not billed by January 20, 2011 will not be eligible for funding. The invoices shall be paid in accordance with standard County procedures, subject to the approval of the Anoka County Board of Commissioners.
- 7. **ELIGIBILITY FOR FUNDS.** The Municipality is entitled to receive reimbursement for eligible expenses, less revenues or other reimbursement received, for eligible activities up to the project maximum as computed below, which shall not exceed \$30,721.32. The project maximum for eligible expenses shall be computed as follows:
 - a. A base amount of \$10,000.00 for recycling activities only; and
 - b. \$5.08 per household for recycling activities only.

Notwithstanding any provision to the contrary, the County reserves the right to reduce the funding provided hereunder in the event insufficient SCORE funds are available. If the spring SCORE payment of \$411,511 is not received or is reduced, the County may reduce the project maximum amount payable to the Municipality. The County will promptly notify the Municipality in the event that the project maximum will be reduced.

- 8. **RECORDS.** The Municipality shall maintain financial and other records and accounts in accordance with requirements of the County and the State of Minnesota. The Municipality shall maintain strict accountability of all funds and maintain records of all receipts and disbursements. Such records and accounts shall be maintained in a form which will permit the tracing of funds and program income to final expenditure. The Municipality shall maintain records sufficient to reflect that all funds received under this

Agreement were expended in accordance with Minn. Stat. § 115A.557, subd. 2, for residential solid waste recycling purposes. The Municipality shall also maintain records of the quantities of materials recycled. All records and accounts shall be retained as provided by law, but in no event for a period of less than five years from the last receipt of payment from the County pursuant to this Agreement.

9. **AUDIT.** Pursuant to Minn. Stat. § 16C.05, the Municipality shall allow the County or other persons or agencies authorized by the County, and the State of Minnesota, including the Legislative Auditor or the State Auditor, access to the records of the Municipality at reasonable hours, including all books, records, documents, and accounting procedures and practices of the Municipality relevant to the subject matter of the Agreement, for purposes of audit. In addition, the County shall have access to the project site(s), if any, at reasonable hours.

10. **GENERAL PROVISIONS.**

- a. In performing the provisions of this Agreement, both parties agree to comply with all applicable federal, state or local laws, ordinances, rules, regulations or standards established by any agency or special governmental unit which are now or hereafter promulgated insofar as they relate to performance of the provisions of this Agreement. In addition, the Municipality shall comply with all applicable requirements of the State of Minnesota for the use of SCORE funds provided to the Municipality by the County under this Agreement.
- b. No person shall illegally, on the grounds of race, creed, color, religion, sex, marital status, public assistance status, sexual preference, handicap, age or national origin, be excluded from full employment rights in, participation in, be denied the benefits of, or be otherwise subjected to unlawful discrimination under any program, service or activity hereunder. The Municipality agrees to take affirmative action so that applicants and employees are treated equally with respect to the following: employment, upgrading, demotion, transfer, recruitment, layoff, termination, selection for training, rates of pay, and other forms of compensation.
- c. The Municipality shall be responsible for the performance of all subcontracts and shall ensure that the subcontractors perform fully the terms of the subcontract. The Agreement between the Municipality and a subcontractor shall obligate the subcontractor to comply fully with the terms of this Agreement.
- d. The Municipality agrees that the Municipality's employees and subcontractor's employees who provide services under this agreement and who fall within any job classification established and published by the Minnesota Department of Labor & Industry shall be paid, at a minimum, the prevailing wages rates as certified by said Department.

- e. It is understood and agreed that the entire Agreement is contained herein and that this Agreement supersedes all oral and written agreements and negotiations between the parties relating to the subject matter hereof.
 - f. Any amendments, alterations, variations, modifications, or waivers of this Agreement shall be valid only when they have been reduced to writing, duly signed by the parties.
 - g. Contracts let and purchases made under this Agreement shall be made by the Municipality in conformance with all laws, rules, and regulations applicable to the Municipality.
 - h. The provisions of this Agreement are severable. If any paragraph, section, subdivision, sentence, clause or phrase of this Agreement is for any reason held to be contrary to law, such decision shall not affect the remaining portion of this Agreement.
 - i. Nothing in this Agreement shall be construed as creating the relationship of co-partners, joint venturers, or an association between the County and Municipality, nor shall the Municipality, its employees, agents or representatives be considered employees, agents, or representatives of the County for any purpose.
11. **PUBLICATION.** The Municipality shall acknowledge the financial assistance of the County on all promotional materials, reports and publications relating to the activities funded under this Agreement, by including the following acknowledgement: "Funded by the Anoka County Board of Commissioners and State SCORE funds (Select Committee on Recycling and the Environment).
12. **INDEMNIFICATION.** The County agrees to indemnify, defend, and hold the Municipality harmless from all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, resulting from the acts or omissions of its public officials, officers, agents, employees, and contractors relating to activities performed by the County under this Agreement.
- The Municipality agrees to indemnify, defend, and hold the County harmless from all claims, demands, and causes of action of any kind or character, including the cost of defense thereof, resulting from the acts or omissions of its public officials, officers, agents, employees, and contractors relating to activities performed by the Municipality under this Agreement.
- The provisions of this subdivision shall survive the termination or expiration of the term of this Agreement.
13. **TERMINATION.** This Agreement may be terminated by mutual written agreement of the parties or by either party, with or without cause, by giving not less than seven (7) days written notice, delivered by mail or in person to the other party, specifying the date

of termination. If this Agreement is terminated, assets acquired in whole or in part with funds provided under this Agreement shall be the property of the Municipality so long as said assets are used by the Municipality for the purpose of a landfill abatement program approved by the County.

IN WITNESS WHEREOF, the parties hereunto set their hands as of the dates first written above:

CITY OF EAST BETHEL

COUNTY OF ANOKA

By: _____

By: _____

Name: _____

Dennis D. Berg, Chair
Anoka County Board of Commissioners

Title: _____

Date: _____

Date: _____

ATTEST:

By: _____
Municipality's Clerk

Terry L. Johnson
County Administrator

Date: _____

Date: _____

Approved as to form and legality:

Approved as to form and legality:

Assistant County Attorney



City of East Bethel City Council Agenda Information

Date:

January 6, 2010

Agenda Item Number:

Item 8.0 E.1

Agenda Item:

Ordinance #15, Second Series, Transmission Lines

Requested Action:

Consider adoption of Ordinance #15, Second Series, An Ordinance Establishing A Requirement And Criteria For Conditional Use Permits For Transmission Lines

Background Information:

Concerns had been raised by both residents and City Staff to the adequacy of the City's regulations and other controls covering the location, height, and structural configuration of electric power and communication transmission lines in the City. The City has limited official controls to protect property values and the public health, safety, and general welfare of the City from potential impacts of the extension and construction of transmission lines within the City.

In response, Council directed that a work group be formed to review current regulations and standards and develop a new ordinance that addresses the siting of such facilities. Ordinance #15, Second Series, was the result of the work group efforts.

The purpose of the regulations was to establish general and specific criteria and process for conditional uses for electric power transmission lines. These uses will be subject to careful evaluation to ensure that their location, size, and design are consistent with the standards, purposes, and procedures of the ordinance and the comprehensive plan. Further, these uses shall not have a negative impact on property values or financing options, public safety, public health, and environmentally sensitive areas in the City and such uses will address the future power and communication needs of the City.

The proposed ordinance contains the following information:

General Standards:

All transmission lines in any zoning district require a Conditional Use Permit (CUP). There are guidelines/standards that City Council must follow when considering granting a CUP such as the use must be consistent with the goals, policies, and objectives of the comprehensive plan, the use must not have undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements, and the use must not have adverse impact on property values, public health, safety, or welfare, and environmentally sensitive areas.

Specific Standards: Outlines the application process and requirements.

Preliminary application submittal requires applicant to participate in a work group process in which the proposed project and alternatives for the proposed locations will be analyzed by the work group. The work group will present a recommendation/report to Planning Commission in which the Planning Commission will narrow the alternatives for each proposed siting and/or facility.

Following this process, the applicant will submit an application for a CUP. The ordinance outlines the required information to be submitted with the application. Once the CUP is approved, the applicant would be required to submit a site plan for review in which City Council may consider the site plan at the time of the conditional use request.

Council reviewed the proposed ordinance on November 4, 2009 and directed that outside legal counsel review the proposed ordinance and provide an opinion on the content including the City's authority to enact such an ordinance. In addition, Council directed the proposed ordinance be shared with the League of Minnesota Cities for review.

Mr. Jim Strommen of the law firm Kennedy and Graven was identified as an expert in this type regulation both from a city perspective as well as the regulated industry perspective. He has provided an opinion memo that provides a response to two basic questions as follows:

1. Is the City pre-empted from requiring GRE to obtain a conditional use permit ("CUP") for the proposed transmission line?

Answer: The City is not pre-empted by state law from exercising its land use regulatory authority by requiring GRE to obtain a CUP for the type of transmission line being proposed by GRE.

2. If the City is not pre-empted from requiring GRE to obtain a CUP, is there anything in the City's proposed ordinance that goes beyond the scope of the City's land use regulatory authority?

Answer: Some of the provisions in the proposed ordinance could be questioned if applied in a manner that prohibits a utility's statutory rights and duties to provide electric service to customers and the Minnesota Public Utilities Commission's authority to regulate that service.

Mr. Strommen concludes that:

We have discussed specific provisions of the proposed ordinance and submitted possible language that could be used. Based on our review of Minnesota law, however, the City has the right to enact an ordinance regulating the placement of transmission lines that are not HVTLS permitted through the PUC process. Even those lines, however, are subject to reasonable land use and ROW ordinance authority the City has been given by the Legislature.

Mr. Tom Grundhoffer of the LMC has reviewed the ordinance. Mr. Grundhoffer is the LMC General Counsel and provides legal advice to the LMCIT on land use and ordinance proposals. Mr. Grundhoffer has advised that the ordinance, as revised by Mr. Strommen, would be defended by the LMCIT if challenged.

Attachment(s):

1. Ordinance #15, Second Series, Transmission Lines
2. Ordinance #15, Second Series, Transmission Lines, Redline Version
3. Mr. Strommen's Opinion Memo dated December 21, 2009

Fiscal Impact:

None at this time

Recommendation(s):

Staff is recommending adoption of Ordinance #15, Second Series, Transmission Lines as revised by Mr. Strommen and direction to prepare a summary for publication.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

Ordinance 15, Second Series

AN ORDINANCE ESTABLISHING A REQUIREMENT AND CRITERIA FOR
CONDITIONAL USE PERMITS FOR TRANSMISSION LINES IN THE CITY OF EAST
BETHEL, ANOKA COUNTY, MINNESOTA

1. Purpose.

The purpose of this Ordinance is to establish general and specific criteria and process relating to conditional uses for certain transmission lines. These uses shall be subject to careful evaluation to ensure that their location, size, and design are consistent with the standards, purposes, and procedures of this Ordinance and the city's zoning ordinance and comprehensive plan. Such uses shall address the future power needs of the city.

2. Definitions.

- A. *City Engineering Standards Manual* is that manual that provides definitions, standards, regulations, and other pertinent information regarding the engineering requirements for infrastructure in the city.
- B. *Comprehensive Plan* means that plan for growth and development as adopted on August 15, 2007 as from time to time modified by the city council of the City of East Bethel.
- C. *Electric Transmission Line* means any electric utility transmission line and related facilities that is not subject to exclusive Minnesota Public Utilities Commission route permitting under Minnesota Statutes, chapter 216E or certificate of need determination under Section 216B.243.
- D. *Tree Preservation Ordinance* means Chapter 66, Section VIII, Tree Preservation, of the City of East Bethel City Code as adopted on January 7, 2009 as from time to time amended by the city council of the City of East Bethel.
- E. *Zoning Ordinance* means Appendix A, Zoning Code, to the City of East Bethel City Code as adopted on January 7, 2009 as from time to time amended by the city council of the City of East Bethel.

3. General Standards.

All transmission lines in any zoning district shall require a Conditional Use Permit. No conditional use permit for a transmission line shall be granted unless the city council determines that the standards set forth in Section 4.9 of the Zoning Ordinance and all of the following standards are met:

- A. the use is consistent with the purpose of this ordinance;
- B. the use is consistent with the goals, policies, and objectives of the comprehensive plan;
- C. the use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements; and
- D. the use does not have an undue adverse impact on property values, public health, safety or welfare, environmentally sensitive areas, and FHA and VA home financing alternatives.

4. Specific Standards.

In addition to the general standards specified in subdivision 3, no conditional use permit shall be granted for transmission line unless and until the city council determines that all of the following specific standards are met.

- A. Utility poles and appurtenances (such as wires) over 40 feet in height and freestanding upon the ground, and transmission lines that are not subject to state review under the Minnesota power plant siting must comply and participate in the following process:

Phase I: Preliminary Process Before a Transmission Line Conditional Use Permit Application is Submitted:

- 1) Before submitting a conditional use permit application, the applicant must participate in a work group process. The work group will consist of one council member, one member from each of the city's commissions (Planning, Parks, and Roads); and the city planner. The work group will include at least one city resident appointed by city council. Up to two additional residents may be appointed as deemed appropriate and necessary by the city council.
 - 2) The work group will meet with the applicant to review the proposed project and alternatives for the proposed locations. The applicant must submit an analysis to the work group that includes but is not limited to the following:
 - a. documentation demonstrating the need and purpose for such a transmission line so alternatives to the transmission line can be adequately assessed;
 - b. all of the alternatives and associated costs considered by the applicant;
 - c. alternative locations;
 - d. A "no-build" alternative that discusses measures that could be taken in an attempt to meet the documented need without construction of the transmission line; and
 - e. designation of the applicant's preferred location.
- B. The city may retain an independent technical expert paid for by the applicant to assist the work group. The city will advise the applicant of the identity of the expert and the applicant will have five business days to object to the expert after receiving notice from the city. If the applicant does not object to the expert within that time, the expert will be deemed to be acceptable. If the applicant objects to the expert, the work group will give good faith consideration to the objection and determine whether to use the expert or select another one. If another is selected, the process set forth above will be used for the selection of the expert. The work group will conduct an analysis of the alternatives and present its report to the city's planning commission. The city's planning commission, based on the work group submittals and applicant presentations, will narrow the alternatives for the siting of the transmission line or facility. One of those alternatives may be a no-build alternative.
- C. Following the Phase I process, the applicant may submit an application for a conditional use permit. In addition to the other information required by the city for a conditional use permit application, the application must include the following information for each alternative selected by the planning commission:
- 1) the cost;

- 2) the amount of vegetation that would be removed or damaged;
- 3) for an electric transmission line, a summary of current research regarding the health effects of EMF levels, conducted by health and scientific professionals, including those who do and do not receive utility sponsorship;
- 4) for an electric transmission line, the EMF levels under maximum and average anticipated loading at the base of the utility poles, underneath the wires between the poles, at ground level above underground wires, at the edge of the property line, at the edge of the closest habitable building along the proposed route, and at the point above ground where there would be the greatest EMF level;
- 5) for an electric transmission line, a description of the reasonable and prudent measures that the applicant would take to minimize EMF levels along all alternative routes;
- 6) depictions of the views of the proposed transmission line, if above ground, from at least two directions selected by city staff;
- 7) a statement of ownership interest in the property for which the conditional use permit is requested;
- 8) a description of the potential environmental impacts for each alternative;
- 9) a proposed timeline for each alternative to include planning, permitting, construction, and activation;
- 10) all necessary data to incorporate into the city's emergency management plan; and
- 11) other information, data, surveys, and studies that may be reasonably required by the work group.

- D. The applicant must comply with all of the following unless the applicant shows that compliance is not reasonable or prudent:
- 1) The routes must be on or along corridors presently used for public roads, railroads, or above-ground utilities, or on corridors that were previously used for such purposes and are being retained for future public or utility purposes;
 - 2) Along arterial or collector streets, as identified in the city's comprehensive plan, transportation section, instead of local streets;
 - 3) Along platted utility easements in residential zones which do not abut public roads or roadway easements may not be used, unless the lines are placed underground; and
 - 4) Along privately acquired easements.
- E. After receiving a complete application, the planning commission must hold a public hearing on the application. At least 10 days before the hearing, the city must mail notice of the hearing to all affected owners of property, which shall be all property wholly or partially within a 1,000-foot radius of any portion of the alternative locations to be presented to the planning commission.

The city will ensure notice is mailed to affected property owners that provides for a description of the project; description of the potential impacts to include but not limited to pole heights, clearing limits, tree removal, and easement distances; and, other relevant information regarding the proposed transmission line such as size/capacity, description of the need and land acquisition issues.

- F. Following the public hearing, the planning commission will recommend a preferred alternative to the city council. The city council may accept the recommendation, modify the recommendation, or reject the recommendation by a majority vote of the members present. The planning commission may recommend and the city council may impose reasonable conditions as part of the permit.
- G. In making their decisions, the planning commission and city council must consider the following factors:
- 1) the potential adverse aesthetic, economic, environmental, social, health, and/or safety impacts on adjacent properties or people;
 - 2) the potential interference with public use of public property;
 - 3) the applicant's need to adequately and reliably serve customers within the relevant service area now and in the foreseeable future;
 - 4) compliance with the requirements in subparagraph D and other ordinances relating to utility facilities in the right-of-way;
 - 5) cost; and
 - 6) traffic impacts
- H. The applicant may notify the city and request selection of a different alternative after the city council's action if the applicant believes that it cannot use the selected alternative because of a reason that was beyond its own control and not apparent during the selection process. The city council may approve a different alternative that has been subject to Phase 1 requirements if it finds that the applicant is prevented from using the selected location.
- I. At a minimum, conditions addressed in the permit required by this ordinance must address the following items:
1. A description of any easements, as proposed, for the placement of a transmission line by the power or communications company, subject to availability;
 2. Address the requirements of the city's tree preservation ordinance;
 3. Address the requirements and comply with all applicable elements of the city's comprehensive plan, zoning ordinance, and engineering standards manual.
- J. Phase II: Site Plan
1. The applicant must apply for site plan approval after receiving the conditional use permit and before beginning construction. At the applicant's request, the city council may choose to consider the site plan at the time of the conditional use permit. The application must comply with the conditions specified in paragraphs A through E. The applicant must have sufficient interest in the property on which the transmission lines are to be located and for which the site plan review is requested.
 2. The applicant must submit a landscape plan prepared by a registered landscape architect. The plan must be designed to mitigate the amount of trees removed for the transmission line and must minimize the visual impact on abutting properties caused by the transmission line. The landscape plan will be subject to review and approval by the city. The applicant must submit a letter of credit or cash escrow in an amount

- equal to at least 150 percent of the approved estimated landscaping cost. The landscaping must be installed and maintained in compliance with code provisions and the plan as approved by the city. With the concurrence of the abutting property owner, the landscape plan may include plantings on abutting property; in which case, the applicant will be responsible for installation, and the abutting property owner will be responsible for the maintenance of the landscaping.
3. The applicant must design the transmission line to minimize its visual impact. The applicant must submit configuration, material, and color options that are technically feasible. The city may require the applicant to design the transmission line in a manner that reduces the visual impact of the project, including regulating the height and spacing of utility poles. Utility poles may not exceed 80 feet in height, except when needed to cross a major roadway such as a freeway or to maintain horizontal alignment along uneven rights-of-way or easements.
 4. The line must not interfere with the use of public rights-of-way, including use for vehicular and pedestrian travel, snow storage, and lateral support.
 5. The applicant and any subsequent owner must continually maintain the transmission line in good condition, securing poles and/or guy wires to the ground, and replacing poles that are in a deteriorated condition.
5. **Penalty.**
Any individual found in violation of any provision of this ordinance shall be guilty of a misdemeanor.
6. **Severability.**
If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.
7. **Effective Date.**
The ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of Minnesota Statute Section 331A.01, Subd. 10, as it may be amended from time to time.

Adopted this 6th day of January, 2010 by the City Council of the City of East Bethel.

For the City:

Greg Hunter, Mayor

ATTEST:

Douglas Sell, City Administrator

Adopted:	January 6, 2010
Summary Published:	January 15, 2010
Effective:	January 15, 2010

ORDINANCE NO. 15, SECOND SERIES

AN ORDINANCE REGULATING ESTABLISHING A REQUIREMENT AND CRITERIA FOR CONDITIONAL USE PERMITS FOR TRANSMISSION LINES IN THE CITY OF EAST BETHEL, ANOKA COUNTY, MINNESOTA

THE CITY COUNCIL OF THE CITY OF EAST BETHEL, MINNESOTA DOES ORDAIN:

1. Purpose.

~~It is the intent of the City of East Bethel~~The purpose of this Ordinance is to establish general and specific criteria and process ~~for relating to conditional uses for electric power and communications~~certain transmission lines. These uses shall be subject to careful evaluation to ensure that their location, size, and design are consistent with the standards, purposes, and procedures of this Ordinance and the city's zoning ordinance and ~~the comprehensive plan. Further, these uses shall not have a negative impact on property values or financing options, public safety, public health, and environmentally sensitive areas in the city.~~ Such uses shall address the future power and communication needs of the city.

2. Definitions.

- A. *City Engineering Standards Manual* is that manual that provides definitions, standards, regulations, and other pertinent information regarding the engineering requirements for infrastructure in the city.
- B. *Comprehensive Plan* means that plan for growth and development as adopted on August 15, 2007 as from time to time modified by the city council of the City of East Bethel.
- ~~C. *Distribution Line* means any electrical power line rated less than 25Kv used to distribute electrical power to individual customers or a communication line used to distribute electronic communications to individual customers.~~
- ~~D. *Transmission Line* means any electrical power line rated over 25Kv used to transmit electrical power or a communication line capable of transmitting multiple electronic communications.~~
- C. *Electric Transmission Line* means any electric utility transmission line and related facilities that is not subject to exclusive Minnesota Public Utilities Commission route permitting under Minnesota Statutes, chapter 216E or certificate of need determination under Section 216B.243.
- ~~E~~D. *Tree Preservation Ordinance* means Chapter 66, Section VIII, Tree Preservation, of the City of East Bethel City Code as adopted on January 7, 2009 as from time to time amended by the city council of the City of East Bethel.
- ~~F~~E. *Zoning Ordinance* means Appendix A, Zoning Code, to the City of East Bethel City Code as adopted on January 7, 2009 as from time to time amended by the city council of the City of East Bethel.

3. General Standards.

All transmission lines in any zoning district shall require a Conditional Use Permit. No conditional use permit for ~~power and/or communication~~a transmission line shall be granted unless the city council determines that the standards set forth in _____ of the Zoning Ordinance and all of the following standards ~~will be~~are met:

- A. the use is consistent with the ~~intent~~purpose of this ordinance;
- B. the use is consistent with the goals, policies, and objectives of the comprehensive plan;
- C. the use does not have an undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements; and
- D. the use does not have an undue adverse impact on property values, public health, safety or welfare, environmentally sensitive areas, and FHA and VA home financing alternatives.

4. Specific Standards.

In addition to the general standards specified in subdivision 3, no conditional use permit shall be granted for ~~power and/or communications~~a transmission lines unless and until the city council determines that all of the following specific standards contained in this subdivision will be met.

- A. Utility poles and appurtenances (such as wires) ~~that are part of a transmission line system~~ over 40 feet in height and freestanding upon the ground, and transmission lines that are not subject to state review under the Minnesota power plant siting must comply and participate in the following process:

Phase I: Preliminary ~~Application for~~Process Before a Transmission Line Conditional Use Permit Application is Submitted:

- 1) ~~The~~Before submitting a conditional use permit application, the applicant must ~~first~~ participate in a work group process. The work group will consist of one council member, one member from each of the city's commissions (Planning, Parks, and Roads); and the city planner. The work group will include at least one ~~East Bethel~~city resident appointed by the city council. Up to two additional residents may be appointed as deemed appropriate and necessary by the city council. ~~Members of the work group shall serve a term concurrent with their election or appointment to office. Residents shall serve a three-year term subject to city council appointment.~~
- 2) The work group will meet with the applicant to review the proposed project and alternatives for the proposed locations. The applicant must submit an analysis to the work group ~~which~~that includes but ~~may~~is not be limited to the following:
 - a. documentation demonstrating the need and purpose for such a transmission line so alternatives to the transmission line can be adequately assessed;
 - b. all of the alternatives and associated costs considered by the applicant;
 - c. alternative locations;
 - d. A "no-build" alternative that discusses measures that could be taken in an attempt to meet the documented need without construction of the transmission line; and
 - e. designation of the applicant's preferred location.
- B. The city may retain an independent technical expert paid for by the applicant to assist the work group. ~~The expert must be acceptable to city will advise the applicant, who may not unreasonably withhold this acceptance. The~~ of the identity of the expert and the applicant

will have five ~~(5)~~ business days to ~~reject~~object to the ~~city's selected~~ expert after receiving notice from the city. If the applicant does not ~~reject~~object to the expert within that time, the expert will be deemed to be acceptable. If the applicant objects to the expert, the work group will give good faith consideration to the objection and determine whether to use the expert or select another one. If another is selected, the process set forth above will be used for the selection of the expert. The work group will conduct an analysis of the alternatives and present its report to the city's planning commission. The city's planning commission, based on the work group submittals and applicant presentations, will narrow the alternatives for ~~each proposed~~the siting and/of the transmission line or facility. One of those alternatives may be a no-build alternative.

C. Following the Phase I process, the applicant ~~will then~~may submit an application for a conditional use permit ~~with~~. In addition to the other information required by the city for a conditional use permit application, the application must include the following information for each alternative selected by the planning commission:

- 1) the cost;
- 2) the amount of vegetation that would be removed or damaged;
- 3) for an ~~electrical~~electric transmission line(s), a summary of current research regarding the health effects of EMF levels, conducted by health and scientific professionals, including those who do and do not receive utility sponsorship;
- 4) for an ~~electrical~~electric transmission line, the EMF levels under maximum and average anticipated loading at the base of the utility poles, underneath the wires between the poles, at ground level above underground wires, at the edge of the property line, at the edge of the closest habitable building along the proposed route, and at the point above ground where there would be the greatest EMF level;
- 5) for an ~~electrical~~electric transmission line, a description of the reasonable and prudent measures that the applicant would take to minimize EMF levels along all alternative routes;
- 6) depictions of the views of the proposed transmission line, if above ground, from at least two directions selected by city staff;
- 7) a statement of ownership interest in the property for which the conditional use permit is requested;
- 8) ~~describe~~a description of the potential environmental impacts for each alternative;
- 9) a proposed timeline for each alternative to include planning, permitting, construction, and activation;
- 10) ~~provide~~ all necessary data to incorporate into the city's emergency management plan; and
- 11) other information, data, surveys, and studies that may be reasonably required by the work group.

D. The applicant ~~shall be required to comply with all items noted below for all alternative routes for transmission lines. The applicant~~ must comply with all of the following unless the applicant shows that compliance is not reasonable or prudent:

- 1) The routes must be on or along corridors presently used for public roads, railroads, or above-ground utilities, or on corridors ~~which~~that were previously used for such purposes and ~~which~~ are being retained for future public or utility purposes;
 - 2) Along arterial or collector streets, as identified in the city's comprehensive plan, transportation section, instead of local streets;
 - 3) Along platted utility easements in residential zones which do not abut public roads or roadway easements may not be used, unless the lines are placed underground; and
 - 4) Along privately acquired easements.
- E. After receiving a complete application, the planning commission must hold a public hearing on the application. At least 10 days before the hearing, the city must mail notice of the hearing to all affected owners of property, which shall be all property wholly or partially within a 1,000-foot radius of any portion of the alternative locations to be presented to the planning commission-
- ~~In addition, the~~The city will ensure notice is mailed to affected property owners that provides for a description of the project; description of the potential impacts to include but not limited to pole heights, clearing limits, tree removal, and easement distances; and, other relevant information regarding the proposed transmission line such as size/capacity, description of the need and land acquisition issues.
- F. Following the public hearing, the planning commission will recommend a preferred alternative to the city council. The city council may accept the recommendation, modify the recommendation, or reject the recommendation by a majority vote of the members present. The planning commission may recommend and the city council may impose reasonable conditions as part of the permit.
- G. In making their decisions, the planning commission and city council must consider the following factors:
- 1) the potential adverse aesthetic, economic, environmental, social, health, and/or safety impacts on adjacent properties or people;
 - 2) the potential interference with public use of public property;
 - 3) the applicant's need to adequately and reliably serve customers within the relevant service area now and in the foreseeable future;
 - 4) compliance with the requirements in subparagraph D and other ordinances relating to utility facilities in the right-of-way;
 - 5) cost; and
 - 6) traffic impacts
- H. The applicant may notify the city and request selection of a different alternative after the city council's action if the applicant believes that it cannot use the selected alternative because of a reason that was beyond its own control and not apparent during the selection process. The city council may approve a different alternative that has been subject to Phase 1 requirements if it finds that the applicant is prevented from using the selected location.

- I. At a minimum, conditions addressed in the permit required by this ordinance must address the following items:
 1. A description of any easements, as proposed, for the placement of a transmission line by the power or communications company, subject to availability;
 2. Address the requirements of the city's tree preservation ordinance;
 3. Address the requirements and comply with all applicable elements of the city's comprehensive plan, zoning ordinance, and engineering standards manual.

J. Phase II: Site Plan Review

1. The applicant must apply for site plan approval after receiving the conditional use permit and before beginning construction. At the applicant's request, the city council may choose to consider the site plan at the time of the conditional use permit. The application must comply with the conditions specified in paragraphs A through E. The applicant must have sufficient interest in the property on which the transmission lines are to be located and for which the site plan review is requested.
2. The applicant must submit a landscape plan prepared by a registered landscape architect. The plan must be designed to mitigate the amount of trees removed for the transmission line and must minimize the visual impact on abutting properties caused by the transmission line. The landscape plan will be subject to review and approval by the city. The applicant must submit a letter of credit or cash escrow in an amount equal to at least 150 percent of the approved estimated landscaping cost. The landscaping must be installed and maintained in compliance with code provisions and the plan as approved by the city. With the concurrence of the abutting property owner, the landscape plan may include plantings on abutting property; in which case, the applicant will be responsible for installation, and the abutting property owner will be responsible for the maintenance of the landscaping.
3. The applicant must design the transmission line to minimize its visual impact. The applicant must submit configuration, material, and color options that are technically feasible. The city may require the applicant to design the transmission line in a manner that reduces the visual impact of the project, including regulating the height and spacing of utility poles. Utility poles may not exceed 80 feet in height, except when needed to cross a major roadway such as a freeway or to maintain horizontal alignment along uneven rights-of-way or easements.
4. The line must not interfere with the use of public rights-of-way, including use for vehicular and pedestrian travel, snow storage, and lateral support.
5. The applicant and any subsequent owner must continually maintain the transmission line in good condition, securing poles and/or guy wires to the ground, and replacing poles that are in a deteriorated condition.

5. Penalty.

Any individual found in violation of any provision of this ordinance, shall be guilty of a misdemeanor.

6. Severability

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

7. Effective Date

The ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, Subd. 4, as it may be amended from time to time, which meets the requirements of Minnesota Statute Section 331A.01, Subd. 10, as it may be amended from time to time.

Adopted this 4~~th~~ ___ day of ~~November~~December, 2009 by the City Council of the City of East Bethel.

For the City:

Greg Hunter, Mayor

ATTEST:

Douglas Sell, City Administrator

Adopted: *Insert Date*
Summary Published: *Insert Date*
Effective: *Insert Date*

Kennedy

&

Graven

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200 South Sixth Street
Minneapolis MN 55402

(612) 337-9300 telephone
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<http://www.kennedy-graven.com>

MEMORANDUM

TO: Douglas Sell
City Administrator, City of East Bethel

FROM: Jim Strommen

DATE: December 21, 2009

RE: Proposed City Ordinance No. 15, Regulating Transmission Lines

Introduction

You have asked for a legal review of the above ordinance in light of a pending transmission line route requested by Great River Energy (“GRE”), the generation and transmission utility serving Connexus Energy, a cooperative distribution utility and the City’s sole electric utility serving customers within the City. It is my understanding that the transmission line that GRE intends to construct is a 69 kilovolt (“kv”) capacity transmission line that will deliver electricity to a substation where it will be stepped down to distribution lines to end users in the City and elsewhere. The proposed line is approximately 11 miles long and includes other townships.

GRE’s attorney has submitted a letter to the City concluding that the City does not have the authority to regulate the proposed transmission line by ordinance. We do not agree, subject to the qualifications discussed below.

Questions Presented

1. Is the City pre-empted from requiring GRE to obtain a conditional use permit (“CUP”) for the proposed transmission line?

Answer: The City is not pre-empted by state law from exercising its land use regulatory authority by requiring GRE to obtain a CUP for the type of transmission line being proposed by GRE.

2. If the City is not pre-empted from requiring GRE to obtain a CUP, is there anything in the City's proposed ordinance that goes beyond the scope of the City's land use regulatory authority?

Answer: Some of the provisions in the proposed ordinance could be questioned if applied in a manner that prohibits a utility's statutory rights and duties to provide electric service to customers and the Minnesota Public Utilities Commission's authority to regulate that service.

Legal Background

A. City Authority

GRE is a generation and transmission utility providing electric power to 28 cooperative utilities in Minnesota and Wisconsin, including Connexus. The City is exercising its land use authority delegated to cities by the Legislature in Minnesota Statutes, Sections 462.357 and 462.3595 (2008). The City also has authority to regulate the facilities of electric and gas utilities serving customers within their city through a franchise. Minn. Stat. § 216B.36.

The City has a franchise agreement with Connexus but not with GRE. GRE is not subject to a franchise because it is a generation and transmission utility only and is not a "retail" provider of electricity to customers within the City. Minn. Stat. §§ 216B.02; 216B.36. In addition, the City regulates all utility facilities placed within the right-of-way (ROW), including transmission lines, by authority granted in Minnesota Statutes, Section 237.162 and .163, and Minnesota Rules 7819.0050 et seq., incorporated by City ordinance.

The City has the right to regulate the placement of transmission lines established within the City, both within the rights-of-way (ROW) through its ROW ordinance and on private land through its land use authority. That right exists whether the facility is owned by GRE or Connexus, or other utility.

B. PUC Authority

Like municipalities, the PUC is a creature of the Legislature and has only those powers that are expressly granted or "by implication must be fairly drawn and fairly evident from the agency objectives and powers expressly given by the Legislature." *Minnegasco, a division of Noram Energy Corp v. Minnesota Public Utilities Commission*, 549 N.W. 2d 904, 907 (Minn. 1996).

The Legislature has delegated specific and general authority to the PUC on matters affected by the proposed ordinance. In 1974, the Legislature created the PUC for the purpose of ensuring "adequate and reliable services at reasonable rates" to retail consumers of natural gas and electric services. Minn. Stat. § 216B.01. Such goals are to be carried out to be consistent with the "financial and economic requirements of public utilities," "their need to construct facilities to provide such services," and to avoid unnecessary duplication which increases the cost of service to the consumer and diminishes efficiency. *Id.* All matters affecting rates or services provided by regulated utilities to retail customers are subject to PUC review. *See*, Minn. Stat. §§ 216B.03, 216B.04, 216B.14.

In addition, the subject of need and site routing permits for transmission lines of a specific voltage and length are vested exclusively within the PUC. High voltage transmission lines (“HVTL”) require the approval of the PUC as to need and/or route siting. Minn. Stat. §§ 216B.243 (certificate of need) (“CON”) and 216E.02 (route permitting).

Transmission lines subject to this authority are:

HVTL with a capacity 200 kv or more and greater than 1,500 feet in length, and

HVTL with a capacity of 100 kv or more with more than 10 miles of length in Minnesota or that crosses a state line

Minn. Stat. § 216E.2421 subd. 2(2)(3)).¹

These HVTLs require PUC CON and route approval as necessary. Minn. Stat. § 216B.243, subd. 2; 216E.02.

Section 216E.10 also relates to route permitting and provides that when the PUC issues a route permit for an HVTL, the PUC permit is the “sole site or route approval required to be obtained by the utility” and that such permit will “supersede and preempt all zoning and building, or land use rules, regulations, or ordinances promulgated by regional, county, local and special purpose government.” Minn. Stat. §216E.10, subd. 1. (Emphasis added.)

Lower HVTLs threshold also trigger a route permit requirement through the PUC.

No HVTL with a capacity with 100 kv or more and more than 1,500 in length may be constructed without a route permit form the Commission.

Minn. Stat., §§ 216E.01, subd. 4 and 216E.03, subd. 2.

Thus, the smaller kv length transmission line requires a route permit but not a CON. The minimum jurisdiction of the PUC for HVTL route permitting is 100 kv and at least 1,500 feet in length.

C. PUC or City Authority

The Legislature has also provided for local government review of certain HVTL route or site applications. Minn. Stat. § 216E.05. Section 216E.05 provides the utility with the option of applying to one or more local units of government with “jurisdiction over the ... route” for approval to build the project. Minn. Stat. § 216E.05, subd. 1(a). If the local government unit(s)

¹ Though proposed Ordinance No. 15 does not deal with pipelines, the above statutes also establish a CON process for pipelines greater than six inches in diameter with more than 50 miles of length in Minnesota used for transportation of coal, crude petroleum or petroleum fuels, or natural gas pipelines with more than 50 miles in length.

grants the route permit, PUC approval is not required. *Id.* The statute also provides, however, that if the local unit of government does not want to take jurisdiction over the utility's application, it may, within 60 days after receiving the application for the project, file with the PUC requesting that that PUC be the permitting authority and not the local government unit. Minn. Stat. § 216E.05, subd. 1(b). This local permitting authority jurisdiction is limited to HVTLs with voltage between 100 and 200 kv of any length or 200 and 300 kv and less than ten miles in length with service to a single customer. Minn. Stat. § 216E.05, subd. 2(3)(5).

The statutes are silent on any process for transmission line route permits for lines that are below 100 kv or less than 1,500 feet in length. Thus a 200 kv line less than 1,500 feet would not trigger the route permitting jurisdiction of the PUC. Similarly, a transmission line of 200 kv or more but less than 1,500 feet in length or a 100 kv line with less than 10 miles in length would not trigger the CON process. Minn. Stat. § 216B.2421 subd. 2.

Discussion of City Authority

A. Facial Challenge to Ordinance

In his October 26, 2009 letter, the GRE attorney contends that even though the Legislature has not granted the PUC routing authority for the transmission line being proposed in this case, the PUC's authority is pervasive and preempts the City's authority to regulate routing and other land use related elements associated with an electric transmission line. GRE asserts that the "field" or subject matter of the state law has left no room for municipal regulation. *See Nordmarken v. City of Richfield*, 641 N.W.2d 343, 348 (Minn. App. 2002) citing *Mangold Midwest Co., v. Village of Richfield*, 143 N.W.2d 813, 819 (Minn. 1966). Minnesota law provides that if the state has occupied the entire field of subject matter, a local law purporting to govern or regulate an aspect of the preempted field will be void, even if the law is not in conflict with state law. *Id.* This would be a "facial" challenge to the ordinance, however applied. The question of whether state law has preempted a field depends of the facts and circumstances of each case. *Id.*

If challenged, Ordinance No. 15 would be evaluated in light of four factors that Minnesota courts will apply. If, for example, GRE objects to the ordinance on the grounds that it interferes with PUC authority to regulate utility services, a court will undoubtedly look to the test of preemption.

The test in Minnesota involves court review of four factors, which are:

1. The subject matter regulated;
2. Whether the subject matter is so fully covered by state law that it has become solely a matter of state concern;
3. Whether there is any partial legislation on the subject matter; and
4. Whether the nature of the subject matter is such that the local regulation will have an adverse affect on the general state population.

Nordmarken, 641 N.W.2d at 348.

We believe that Ordinance No. 15 would survive a challenge based on preemption. The PUC regulates utilities and their duty to provide reliable electric service to customers in the state. The PUC's powers regarding land use are incidental to that authority. The PUC is not expert in setbacks, municipal planning, and the integration of HVTL or lower powered transmission lines into a community. Cities are vested with land use authority. Ultimately, cities and their residents are the ones who are required to live with the transmission lines and other utility facilities that are used to deliver service to customers within that city or other local government unit. Both the PUC and cities have roles in protecting the public regarding the routing of transmission lines. Further, the Legislature has not delegated any authority to the PUC on lower voltage transmission lines.

Section 216E.10 makes it clear that the PUC occupies the field of transmission line siting for HVTLs. The statutory scheme is that cities would participate in the HVTL route proceeding and express their land use concerns. Outside of the PUC permitting process, however, there is no legislative land use delegation to the PUC regarding smaller transmission lines. The utility has an obligation to provide service and has been given eminent domain powers to carry it out. Within those parameters is an "open field" of traditional municipal land use authority to ensure the health, safety and welfare of the residents. None of the recent cases in which cities and owner groups challenged Xcel Energy's HVTL line expansion contained a direct challenge by Xcel to the city's requirement of a CUP process. The challenge focused on alleged arbitrary denials of the CUP based on health (EMF) and property value grounds. No court opinion states that cities are without any authority to require a CUP for transmission lines.

Further, transmission lines that fall below the HVTL definition are not solely a matter of state concern but are uniquely of interest to the local government in which the lines are placed, close to and among its residents and businesses. Reasonable regulations as to location setbacks, prevention of attractive nuisance, and visual enhancements come well within the City's land use authority for the health, safety, and general welfare of its residents.

B. Challenge to Ordinance at Applied

Even if an ordinance is proper on its face, the governing authority applying the ordinance may apply it in a manner that is impermissible. In the disputes over HVTLs in the Sunfish Lake area involving Xcel, a district court opinion held that Sunfish Lake's ordinance was applied in an impermissible manner. It found that the city overreached and denied the CUP application of Xcel to expand its HVTL (prior to PUC authority) by acting arbitrarily and capriciously. That issue would be raised if the City prohibited a transmission line or created unreasonable barriers to the establishment of a line that resulted in a material, negative impact on Connexus' ability to serve customers. A denial with such an impact, unless compelling health, safety, and welfare reasons exist, could define the limits of the City's CUP authority here.

Another potential challenge to any City ordinance regulating transmission line routing is the utility's eminent domain authority given to it by the Legislature to carry out its duty to serve customers with a vital service. *See* Minn. Stat. § 216B.04, .38-.42, 222.36 and 301B.02 (providing for the power of eminent domain over private property "necessary or convenient for the transaction of the public business for which it was formed"); *see also* Dakota County District Court opinion in *Northern States Power Company v. City of Sunfish Lake*, File No. C4-02-6854,

May 31, 2002 p. 12 (attached); *Hubbard Broadcasting, Inc. v. City of Afton*, 323 N.W.2d 757, 764 (Minn. 1982) (holding that condemnation power of utilities override local zoning); *Town of Oronoco v. City of Rochester*, 197 N.W.2d 426, 429 (Minn. 1972) (holding that there is a balancing of interests test that applies to resolving conflicts between police power and the right of eminent domain).

There is a web of complementary rights, authority, and responsibilities between the PUC's regulatory authority over GRE and its duty to serve customers with safe and reliable facilities and a city's land use authority in furtherance of the health, safety, and general welfare of its residents. Clearly, land use planning includes the placement of transmission lines not directly governed by the PUC's CON and route permitting authority over HVTLs.

Conclusion

We have discussed specific provisions of the proposed ordinance and submitted possible language that could be used. Based on our review of Minnesota law, however, the City has the right to enact an ordinance regulating the placement of transmission lines that are not HVTLs permitted through the PUC process. Even those lines, however, are subject to reasonable land use and ROW ordinance authority the City has been given by the Legislature.



City of East Bethel City Council Agenda Information

Date:

January 6, 2010

Agenda Item Number:

Item 8.0 E.2

Agenda Item:

Summary of Ordinance 15, Second Series, Transmission Line Regulations

Requested Action:

Consider adopting the Summary of Ordinance 15, Second Series, Transmission Line Regulations and direction to publish.

Background Information:

City Council has adopted Ordinance 15, Second Series, Transmission Line Regulations as a part of the East Bethel City Code. State law requires publication of adopted ordinances or a summary of an amended ordinance. A summary of Ordinance No. 15 will be published upon approval of the summary by City Council.

Attachments:

- 1. Summary of Ordinance 15, Second Series, Transmission Line Regulations

Fiscal Impact:

Not Applicable

Recommendation:

Staff recommends adoption of the Summary of Ordinance 15, Second Series, Transmission Line Regulations and direction to publish in the City's official newspaper.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

ORDINANCE NO. 15, SECOND SERIES

AN ORDINANCE REGULATING TRANSMISSION LINES IN THE CITY OF EAST BETHEL, ANOKA COUNTY, MINNESOTA

SUMMARY OF ORDINANCE

City of East Bethel, Anoka County, Minnesota

At a regular session on January 6, 2010, the East Bethel City Council adopted Ordinance No. 15. Ordinance No.15 regulates electric power transmission lines and communications lines in the City. A summary of Ordinance No. 15 is outlined below, and the complete ordinance may be inspected by any person from 8:00 A.M. to 4:00 P.M. Monday through Friday at the East Bethel City Hall located at 2241 221st Avenue NE, East Bethel, Minnesota 55011, phone number 763-367-7840. The following is only a summary of the ordinance.

1. The East Bethel City Council has adopted an ordinance regulating electric power transmission lines and communications lines in the City. The purpose of this summary is to inform the public of the intent and effect of the ordinance and to publish only a summary of the ordinance with the full ordinance being on file in the office of the City Clerk during regular office hours.

2. The new ordinance provides essentially as follows:

Section 1. Purpose.

The intent of the ordinance is to establish general and specific criteria and a process for issuance of conditional use permits for electric power transmission lines and communications lines in the City.

Section 2. Definitions.

Sets forth the definitions of certain terms used in the ordinance.

Section 3. General Standards.

Provides that all transmission lines in any zoning district of the City will require a conditional use permit and sets forth certain general standards that must be met for such a conditional use permit to be granted.

Section 4. Specific Standards.

Sets forth certain specific standards for such conditional use permits that must be met, in addition to the general standards, before a conditional use permit will be granted.

Specific standards relate to, among other things, utility poles and appurtenances (such as wires) that are part of a transmission line system over 40 feet in height and freestanding and to transmission lines not subject to state review.

Specific standards also:

- Provide for preliminary applications for conditional use permits and a work group application process.
- Provide that applicants must submit a project analysis to the work group which includes alternatives to the proposed project.
- Provide for the retention of a technical expert by the City, to be paid for by the applicant.
- Outline the information that must be furnished with an application.
- Provide for compliance with certain criteria for all proposed alternative routes for transmission lines.
- Provide for public hearings on applications for conditional use permits and the process for action on applications by the City Planning Commission and the City Council.
- Outline factors to be considered by the Planning Commission and the City Council in making their decisions.
- Provide for site plan approval after a conditional use permit application has been approved.
- Provide for: submittal of landscape plans and minimization of the visual impact of transmission lines; for noninterference of lines with public rights-of-way; and for maintenance of transmission lines in good condition.

Section 5. Effective Date.

Provides that the ordinance will be in full force and effect from and after passage and publication according to law.

Section 6. Penalty.

Provides for penalties for violation of the ordinance.

3. The City Council has determined that publication of the title and a summary of Ordinance No. 15 as set forth in this summary will clearly inform the public of the intention and effect of the ordinance. The Council also directs that only the title and this summary be published.

Adopted this 6th day of January, 2010, by the City Council of the City of East Bethel.

Greg Hunter, Mayor

ATTEST:

Douglas Sell, City Administrator

Introduced: October 7, 2009 :

Public Hearing: October 27, 2009

Adopted: January 6, 2010

Published: January 15, 2010



City of East Bethel City Council Agenda Information

Date:

January 6, 2010

Agenda Item Number:

Item 8.0 F.1

Agenda Item:

Appoint Fire Department Officers

Requested Action:

Consider appointing Fire Department Officers

Background Information:

In the past, Officer Positions were elected to two-year terms. Firefighters would apply for Officer Positions and elections would be held.

In 2007, the City Council adopted Ordinance Number 104B relating to the administration and organization of the City. Election of officers in the Fire Department was eliminated under the new ordinance. However, the most recent appointment confirmations by the City Council set two-year term limits. Over the next several years, beginning January 1, 2011, this process will be phased out and officers will be appointed to indefinite terms like any other employee. An officer position would become vacant only upon resignation or removal just as any other employee for the City.

Allowing the department to phase out term limits will provide enough time to effectively educate fire fighters on the new procedure/process and transition this change in the department.

There are several officer positions terms that expire December 31, 2010. All qualified firefighters will be given the opportunity to apply for these officer positions in 2010.

In the interim, there are three officer positions with terms that ended December 31, 2009. The District Fire Chief Position and one Lieutenant Position for Station 1 were posted along with one Lieutenant Position for Station 2. Interested firefighters were asked to submit a letter of intent, resume, and any pertinent certificates to the Fire Chief. Based on the selection process that included qualifications, experience and training, individuals were interviewed for these positions.

After review of the qualifications, experience, training and personal interviews with qualified individuals, the following are recommended for these positions.

Station # 1 Assistant Fire Chief: Ron Stanley
Lieutenant: Gary Schultz

Station # 2 Lieutenant: Tammy Gimpl

Attachment(s):

1. Fire Department Organizational Chart effective 1/1/2010

Fiscal Impact:

These positions are provided for in the 2010 Budget

Recommendation(s):

Based on the recommendation of the Fire Chief, the City Administrator is recommending appointment of Mr. Ron Stanley as District Fire Chief and Mr. Gary Shultz as Lieutenant at Station 1 and, Ms. Tammy Gimpl as a Lieutenant at Station #2. These are two year appointments effective January 1, 2010 and ending December 31, 2011.

These positions will be advertised again in the fall of 2011 and recommendations for these positions will be forwarded to the City Council for appointments effective January 1, 2012 for an indefinite term.

City Council Action

Motion by:_____

Second by:_____

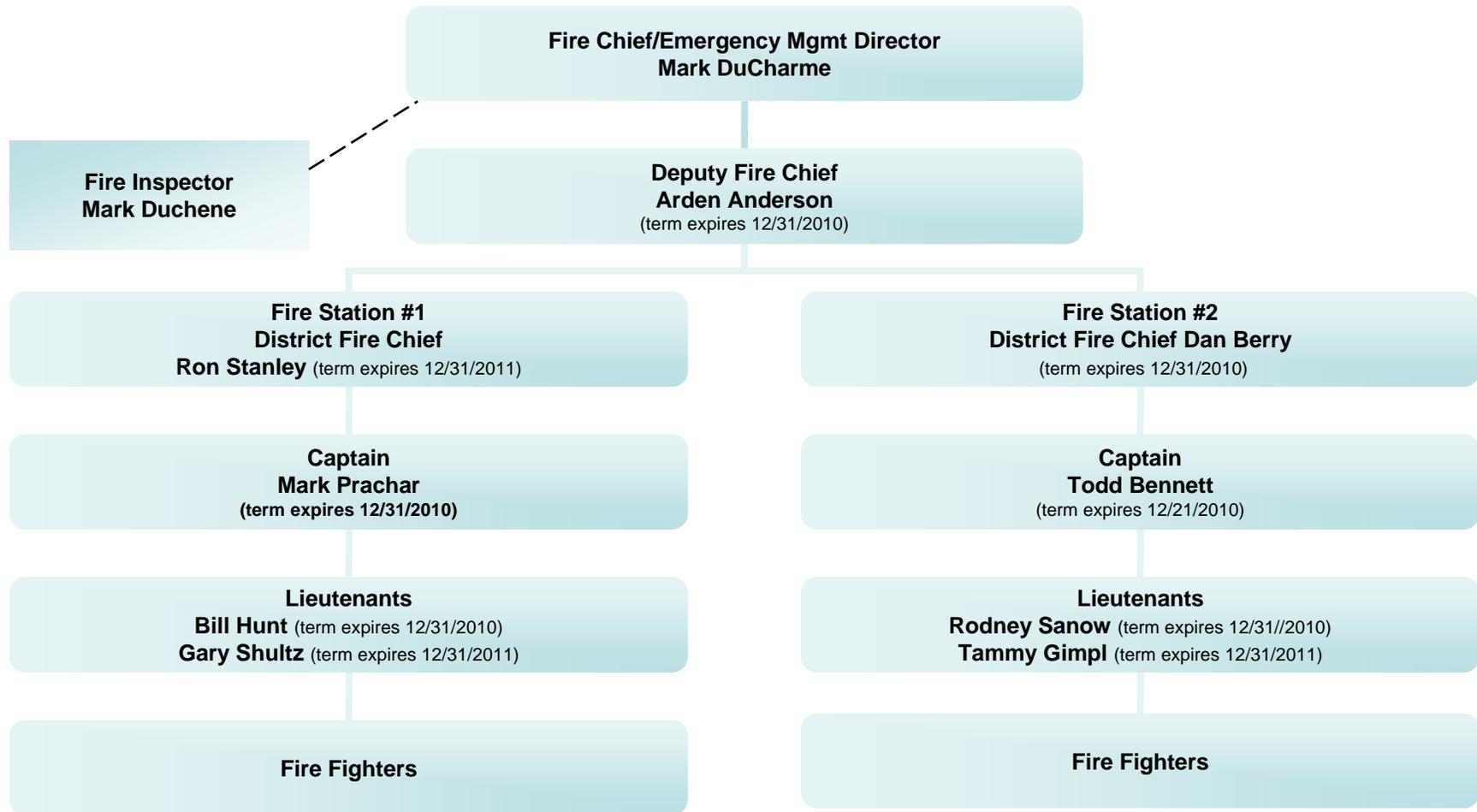
Vote Yes:_____

Vote No:_____

No Action Required:_____

City of East Bethel Fire Department Organizational Chart

Effective January 1, 2010



ATTACHMENT #1



City of East Bethel City Council Agenda Information

Date:

January 6, 2010

Agenda Item Number:

Item 8.0 G.1

Agenda Item:

City Council E-Mail Addresses

Requested Action:

Consider establishing City provided E-Mail accounts for City Council members

Background Information:

Council Member Channer has requested a City email address. This would allow Council Member Channer to separate his personal e-mail from official City Business. Currently all other Council members are using their personal e-mail addresses for receiving messages related to city business. Although the equipment is personal, the subject and content of any e-mails regarding City business or issues by Council Members using their personal e-mail account is subject to data practices laws.

The City Council may want to consider using a City provided email address. This will better protect Council Members' private electronic communications that are unrelated to City business. Council Members would be able to access their City e-mail account by logging on to the City's network through the Internet. Council Members would then use the City's e-mail system for sending and receiving messages related to City business. Standardizing e-mail addresses may make it easier for residents to communicate with the City Council.

Should City Council use standardized e-mail addresses, the City's Technology Use Policy would be followed. The purpose of this policy is to define acceptable and unacceptable use of the City technology including, but not limited to computer systems, electronic mail (e-mail), the Internet and other information systems. The primary goal of this policy is to maintain appropriate security to protect City data and technology and avoid inappropriate use of City technology.

All data stored on computer media owned, leased or rented by the City, is considered to be owned by the city. All data stored on the City's network is subject to the City's records retention schedule and the Minnesota Data Practices Act. Council Members would not have to retain electronic communications on their home computer relating to City business. Exclusive use of the City e-mail would provide storage on the City's network. However, the City Council would be responsible for managing their own City e-mail account. E-mail that is not an official record of City business should be deleted as soon as possible and should not be retained for more than 120 days.

There is a cost for this service. Our e-mail service provider would charge approximately \$720 annually to have City e-mail addresses for the City Council.

The format for e-mail addresses for City Council would follow this construction:
firstname.lastname@ci.east-bethel.mn.us (i.e. steve.channer@ci.east-bethel.mn.us).

Fiscal Impact:

As noted above

Recommendation(s):

Staff is seeking Council direction.

City Council Action

Motion by: _____

Second by: _____

Vote Yes: _____

Vote No: _____

No Action Required: _____



City of East Bethel City Council Agenda Information

Date:

January 6, 2010

Agenda Item Number:

Item 8.0 G.2

Agenda Item:

Labor Agreement Teamsters Local 320

Requested Action:

Labor agreement between the City of East Bethel and Teamster’s Local #320

Background Information:

Based on Council direction, we have offered and the Union has accepted our counter offer that includes several provisions relating to wages, cafeteria contributions, comp time, etc. The final document is attached to this agenda item for your review. We have received written confirmation from the Teamster’s that this agreement is acceptable.

Wages and Salaries

For wages, we have agreement that wages and salaries will remain at 2009 levels and that a provision for a wage negotiation re-opener is provided for in 2011 and 2012. (Attachment #1 to the Agreement)

Cafeteria Contributions

The City and employees share in the cost of increases for insurance benefits that affect the amount contributed to the cafeteria plan. For 2009, the amount paid by the City towards the plan is \$857.07 per month. For 2010 only, the City proposed and the Union accepted a cafeteria contribution of \$906.25 that represents an increase of \$23.35 per month per employee. The total per month per employee for 2010 only is \$906.25.

Calculation of City contributions to the Cafeteria Plan for 2011 and 2012 will revert to the original formula wherein the City and Employees share 50/50 any cost increase. (Article XIII of the Agreement)

Compensatory Time

The Council indicated that the provision to reduce the number of hours to be accrued from 60 to a lesser amount. Further, that any amounts remaining in the “Comp Bank” at the end of November of each year of the agreement be paid out. The City offered and the union accepted a reduction to the Comp Time accrual and pay out that limits the accrual for 2010 to 60 hours, 50 hours for 2011 and 40 hours for 2012. Use of Comp Time requires supervisor approval and must be taken in 2 hour increments, at a minimum. (Section 8.5 of the Agreement)

No other changes are recommended.

Attachment(s):

1. Proposed Labor Agreement

Fiscal Impact:

As noted above

Recommendation(s):

Staff is recommending adoption and execution of the Labor Agreement between the City of East Bethel and Teamster's Local #320

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

**Labor Agreement between
CITY OF EAST BETHEL**

and

**MINNESOTA TEAMSTERS PUBLIC
AND LAW ENFORCEMENT
EMPLOYEES' UNION,
LOCAL #320**

Representing General Employees

JANUARY 1, 2010 - DECEMBER 31, 2012

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ARTICLE I. PURPOSE OF AGREEMENT

This AGREEMENT is entered into between the City of East Bethel, hereinafter the "EMPLOYER," and Minnesota Teamsters Public and Law Enforcement Employees' Union, Local #320, hereinafter the "UNION." The intent and purpose of this Agreement is to:

- 1.1 Establish certain hours, wages and other conditions of employment;
- 1.2 Establish procedures for the resolution of disputes concerning this Agreement's interpretation and/or application;
- 1.3 Specify the full and complete understanding of the parties; and
- 1.4 Place in written form the parties' agreement upon terms and conditions of employment for the duration of this Agreement.
- 1.5 The Employer and the Union, through this Agreement, continue their dedication to the highest quality of public service. Both parties recognize this Agreement as a pledge of this dedication.

ARTICLE II. RECOGNITION

The Employer recognizes the Union as the exclusive representative for:

"All general employees employed by the City of East Bethel, Minnesota, who are public employees within the meaning of Minn. Stat. §179A.03, Subd.14, excluding seasonal, supervisory, confidential and all other employees."

ARTICLE III. UNION SECURITY

In recognition of the Union as the exclusive representative the Employer shall:

- 3.1 Deduct each payroll period an amount sufficient to provide the payment of dues established by the Union from the wages of all employees authorizing in writing such deduction, and
- 3.2 Remit such deduction to the appropriate designated officer of the Union.
- 3.3 The Union may designate one (1) employee from the bargaining unit to act as steward and shall inform the Employer in writing of such choice.
- 3.4 The Union agrees to indemnify and hold the Employer harmless against any and all claims, suits, orders, or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this Article.

ARTICLE IV. EMPLOYER AUTHORITY

- 4.1 The Employer retains the full and unrestricted right to operate and manage all manpower, facilities and equipment; to establish functions and programs; to set and

amend budgets; to determine the utilization of technology; to establish and modify the organizational structure; to select, direct and determine the number of personnel; to establish work schedules, and to perform any inherent managerial function not specifically limited by this Agreement.

- 4.2 Any term and condition of employment not specifically established or modified by this Agreement shall remain solely within the discretion of the Employer to modify, establish, or eliminate.

ARTICLE V. EMPLOYEE RIGHTS - GRIEVANCE PROCEDURE

5.1 DEFINITION OF A GRIEVANCE

A grievance is defined as a dispute or disagreement as to the interpretation or application of the specific terms and conditions of this Agreement.

5.2 UNION REPRESENTATIVES

The Employer will recognize representatives designated by the Union as the grievance representatives of the bargaining unit having the duties and responsibilities established by this Article. The Union shall notify the Employer in writing of the names of such Union representatives and of their successors when so designated.

5.3 PROCESSING OF A GRIEVANCE

It is recognized and accepted by the Union and the Employer that the processing of grievances as hereinafter provided is limited by the job duties and responsibilities of the employees and shall therefore be accomplished during normal working hours only when consistent with such employee duties and responsibilities. The aggrieved employee and the Union representative shall be allowed a reasonable amount of time without loss in pay when a grievance is investigated and presented to the Employer during normal working hours provided the employee and the Union representative have notified and received the approval of the designated supervisor who has determined that such absence is reasonable and would not be detrimental to the work programs of the Employer.

5.4 PROCEDURE

Grievances, as defined by Section 5.1, shall be resolved in conformance with the following procedure:

STEP 1. An employee claiming a violation concerning the interpretation or application of this Agreement, shall within twenty-one (21) calendar days after such alleged violation has occurred, present such grievance to the employee's supervisor as designated by the Employer. The Employer-designated representative will discuss and give an answer to such Step 1 grievance within ten (10) calendar days after receipt. A grievance not resolved in Step 1 and appealed to Step 2 shall be placed in writing setting forth the nature of the grievance, the facts on which it is based, the provision or provisions of the Agreement allegedly violated, and the remedy requested and shall be appealed to Step 2 within ten (10) calendar days after the Employer-designated representative's final answer in Step 1. Any grievance not appealed in writing to Step 2 by the Union within ten (10) calendar days shall be considered waived.

STEP 2. If appealed, the written grievance shall be presented by the Union and discussed with the Employer-designated Step 2 representative. The Employer-designated representative shall give the Union the Employer's Step 2 answer in writing within ten (10) calendar days after receipt of such Step 2 grievance. A grievance not resolved in Step 2 may be appealed to Step 3 within ten (10) calendar days following the Employer-designated representative's final Step 2 answer. Any grievance not appealed in writing to Step 3 by the Union within ten (10) calendar days shall be considered waived.

STEP 3. A grievance unresolved in Step 2 and appealed in Step 3 shall be submitted to arbitration. The Employer and the Union representative shall endeavor to select a mutually acceptable arbitrator to hear and decide the grievance. If the parties cannot agree on an arbitrator, the selection of an arbitrator shall be made in accordance with the "Rules Governing the Arbitration of Grievances" established by the Bureau of Mediation Services.

5.5 **ARBITRATOR'S AUTHORITY**

A. The arbitrator shall have no right to amend, modify, nullify, ignore, add to, or subtract from the terms and conditions of this Agreement. The arbitrator shall consider and decide only the specific issue(s) submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.

B. The arbitrator shall be without power to make decisions contrary to, or inconsistent with, or modifying or varying in any way the application of laws, rules, or regulations having the force and effect of law. The arbitrator's decision shall be submitted in writing within thirty (30) days following the close of the hearing or the submission of briefs by the parties, whichever be later, unless the parties agree to an extension. The decision shall be binding on both the Employer and the Union and shall be based solely on the arbitrator's interpretation or application of the express terms of this Agreement and to the facts of the grievance presented.

C. The fees and expenses for the arbitrator's services and proceedings shall be borne equally by the Employer and the Union provided that each party shall be responsible for compensating its own representatives and witnesses. If either party desires a verbatim record of the proceedings, it may cause such a record to be made, providing it pays for the record. If both parties desire a verbatim record of the proceedings the cost shall be shared equally.

5.6 **WAIVER**

If a grievance is not presented with the time limits set forth above, it shall be considered "waived." If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the Employer's last answer. If the Employer does not answer a grievance or an appeal thereof within the specified time limits, the Union may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next

step. The time limit in each step may be extended by mutual agreement of the Employer and the Union.

ARTICLE VI. DEFINITIONS

- 6.1 **UNION:** MN Teamsters Public and Law Enforcement Employees' Union, Local #320.
- 6.2 **EMPLOYER:** The City of East Bethel.
- 6.3 **UNION MEMBER:** A member of the Minnesota Teamsters Public and Law Enforcement Employees' Union, Local #320.
- 6.4 **EMPLOYEE:** A member of the exclusively recognized bargaining unit.
- 6.5 **BASE PAY RATE:** The employee's hourly pay rate exclusive of longevity or any other special allowance.
- 6.6 **SENIORITY:** Length of continuous service with the Employer.
- 6.7 **OVERTIME:** Work performed at the express authorization of the Employer in excess of forty (40) hours within a seven (7) day period.
- 6.8 **CALL BACK:** Return of an employee to a specified work site to perform assigned duties at the express authorization of the Employer at a time other than an assigned shift. An extension of or early report to an assigned shift is not a call back.
- 6.9 **ON-CALL:** An employee on-call shall receive one (1) hour at regular rate for being on-call per day for each day of the weekend and will receive time and one and one-half (1½) for any time worked while on-call for a minimum of one (1) hour per day for each day of the weekend.

ARTICLE VII. SAVINGS CLAUSE

In the event any provision of this Agreement shall be held to be contrary to law by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision shall be voided. All other provisions of the Agreement shall continue in full force and effect. The voided provision maybe renegotiated at the request of either party.

ARTICLE VIII. WORK SCHEDULES

- 8.1 The sole authority for work schedules is the Employer.
- 8.2 The Employer will give fourteen (14) days advance notice to the full-time employees affected by the establishment of scheduled shifts different from the employees' normal scheduled shift.
- 8.3 In the event that work is required because of unusual circumstances such as (but not

limited to) fire, flood, snow, sleet, or breakdown of municipal equipment or facilities, no advance notice need be given.

- 8.4 The normal work week shall be forty (40) hours Monday through Friday.
- 8.5 Beginning in December 1, 2009, and on December 1 of each subsequent year, employees will be allowed to accumulate compensatory time until the compensatory time leave bank reaches the following maximums for the periods shown:
- | | |
|--|----------|
| December 1, 2009 through November 30, 2010 | 60 hours |
| December 1, 2010 through November 30, 2011 | 50 hours |
| December 1, 2011 through November 30, 2012 | 40 hours |

When the maximum number of hours are accumulated, no additional compensatory shall be accrued during the twelve (12) month period. Any overtime hours worked beyond the compensatory bank limits noted above will be paid in accordance with ARTICLE IX. Use of compensatory time off shall be subject to the written prior approval of the EMPLOYER. Compensatory time shall be taken in two (2) hour increments.

Beginning in December, 2010, and every December thereafter, any compensatory time earned but not used by November 30th of each year will be paid as overtime to the employee on the second pay period in December.

- 8.6 Regular and part-time employees who work a minimum of 1,040 hours per year will be entitled to pro-rated benefits at fifty percent (50%) of the full-time employee level.
- 8.7 Seasonal employees will work from Memorial Day to Labor Day and from Thanksgiving Day to March 1st.

ARTICLE IX. OVERTIME PAY

- 9.1 Hours worked in excess of forty (40) hours within a seven (7) day period will be compensated for at one and one-half (1½) times the employee's regular base pay. Holidays will count as worked hours for overtime purposes. Comp, sick and vacation will not count towards overtime.
- 9.2 For the purpose of computing overtime compensation, overtime hours worked shall not be pyramided, compounded, or paid twice for the same hours worked.
- 9.3 Hours worked taking minutes or attending meetings when required in the evening will be compensated for a minimum of two (2) hours' pay at one and one-half (1½) times the employee's base rate of pay.

ARTICLE X. CALL BACK

An employee called in for work at a time other than the employee's normal scheduled shift will be compensated for a minimum of two (2) hours' pay at one and one-half (1½) times the employee's base rate of pay.

ARTICLE XI. RIGHT OF SUBCONTRACT

Nothing in this Agreement shall prohibit or restrict the right of the Employer from subcontracting work performed by employees covered by this Agreement.

ARTICLE XII. DISCIPLINE

12.1 The Employer will discipline, suspend or dismiss employees for just cause only. Discipline will be in one (1) or more of the following forms:

- A. Oral reprimand and warning;
- B. Written reprimand;
- C. Suspension;
- D. Demotion; or
- E. Discharge.

12.2 Suspension, demotions and discharges will be in written form.

12.3 Written reprimands, notices of suspension, and notices of discharge which are to become part of an employee's personnel file shall be read and acknowledged by signature of the employee. Employees and the Union will receive a copy of such reprimands and/or notices.

12.4 Employees may examine their own individual personnel files at reasonable times under the direct supervision of the Employer.

12.5 Grievances relating to this Article shall be initiated by the Union in Step 3 of the Grievance Procedure under Article 6.

ARTICLE XIII. INSURANCE

13.1 For January 1 through December 31, 2010
The City will review the LMC Wage and Benefit Survey issued by the League of Minnesota Cities and calculate the average Cafeteria Plan contribution for Group VI Cities. The City will compare this contribution rate to the current base contribution rate. An adjustment to this base contribution rate will be made if the average Cafeteria Plan contribution rate from Group VI Cities is greater than the current contribution rate. The adjustment for 2010 shall be the entire increase. If there is no change to the average Cafeteria Plan contribution or if the average Cafeteria Plan contribution decreases, the base contribution rate shall not change.

To the base contribution rate calculated above, the City will add the entire increase of the calculated increase to the medical insurance premium and the entire increase of the calculated increase to the dental insurance premium for an average employee premium. This will become the contribution rate for 2010.

For 2010, the increase to the base contribution rate is \$8.90 per month and the increase to the average employee premium is \$38.00 per month, total \$46.90. The total Cafeteria Contribution for 2010 shall be \$906.25 per month per employee

13.2 Effective January 1, 2011

The base contribution rate to which any adjustment for 2011 shall be the base contribution rate for 2010, \$906.25, less the increased contribution rate applicable to 2010 only, \$23.35, or \$882.90 per employee per month.

The City will review the LMC Wage and Benefit Survey issued by the League of Minnesota Cities and calculate the average Cafeteria Plan contribution for Group VI Cities. The City will compare this contribution rate to the current base contribution rate. An adjustment to this base contribution rate will be made if the average Cafeteria Plan contribution rate from Group VI Cities is greater than the current contribution rate. The adjustment shall be one-half ($\frac{1}{2}$) of the increase. If there is no change to the average Cafeteria Plan contribution or if the average Cafeteria Plan contribution decreases, the base contribution rate shall not change.

To the base contribution rate calculated above, the City will add one-half ($\frac{1}{2}$) of the calculated increase to the medical insurance premium and one-half ($\frac{1}{2}$) of the calculated increase to the dental insurance premium for an average employee premium. This will become the new base contribution rate for the current year.

13.3 Effective January 1, 2012

The City will review the LMC Wage and Benefit Survey issued by the League of Minnesota Cities and calculate the average Cafeteria Plan contribution for Group VI Cities. The City will compare this contribution rate to the current base contribution rate. An adjustment to this base contribution rate will be made if the average Cafeteria Plan contribution rate from Group VI Cities is greater than the current contribution rate. The adjustment shall be one-half ($\frac{1}{2}$) of the increase. If there is no change to the average Cafeteria Plan contribution or if the average Cafeteria Plan contribution decreases, the base contribution rate shall not change.

- 13.4 In addition to the cafeteria contributions outlined above, and as part of the Cafeteria Benefit Program, the City will provide a disability insurance policy which includes both short-term and long-term disability insurance and a basic life insurance policy with a face value of \$50,000.00. Participation in the life insurance and disability policies is mandatory for all full-time employees. The City will add the cost of the premium for these required policies to the base Cafeteria amount for medical and dental insurance.

ARTICLE XIV. PROBATIONARY PERIODS

- 14.1 All newly hired or rehired employees will serve a six (6) months probationary period.
- 14.2 All employees will service a six (6) months' probationary period in any job classification in which the employee has not served a probationary period.
- 14.3 At any time during the probationary period a newly hired or rehired employee may be terminated at the sole discretion of the Employer.
- 14.4 At any time during the probationary period a promoted or reassigned employee may be demoted or reassigned to the employee's previous position at the sole discretion of

the Employer.

ARTICLE XV. SAFETY and EQUIPMENT

- 15.1 The Employer and the Union agree to jointly promote safe and healthful working conditions, to cooperate in safety matters and to encourage employees to work in a safe manner.
- 15.2 The Employer will provide to the employees all safety items, required uniforms and seasonal equipment at no cost to the employee. Issuance and usage of these items shall be at the discretion of the Employer as per written policy on file. Safety shoe Allowance shall be up to one hundred dollars (\$100.00) per calendar year.

ARTICLE XVI. JOB POSTING

- 16.1 The Employer and the Union agree that permanent job vacancies within the designated bargaining unit shall be filled based on the concept of promotion from within provided that internal applicants:
- A. Have the necessary qualifications to meet the standards of the job vacancy; and,
 - B. Have the ability to perform the duties and responsibilities of the job vacancy.
- 16.2 Employees filling a higher job class based on the provisions of this Article shall be subject to the conditions of Article XIII. PROBATIONARY PERIOD.
- 16.3 The Employer has the right of final decision in the selection from all applicants (internal and external) to fill jobs based on qualifications, abilities and experience.
- 16.4 Job vacancies within the designated bargaining unit will be posted for five (5) working days so that members of the bargaining unit can be considered for such vacancies.

ARTICLE XVII. SENIORITY

- 17.1 Seniority will be determining criterion for layoffs only when all job-relevant qualification factors are equal.
- 17.2 Seniority will be the determining criterion for recall when the job-relevant qualification factors are equal. Recall rights under this provision will continue for twelve (12) months after layoff. Recalled employees shall have ten (10) working days after notification or recall by registered mail at the employee's last known address to report to work or forfeit all recall rights.
- 17.3 The Employer shall prepare and post a seniority list each year by January 20th. The Union shall receive a copy of this list.

ARTICLE XVIII. DEFERRED COMPENSATION PROGRAM

- 18.1 The Employer will match up to three percent (3%) of the employee's base salary to the

Minnesota Deferred Compensation Program, on behalf of the employee(s). Employer contributions shall be limited to \$2,000 annually on a pay period by pay period basis.

- 18.2 Employee(s) contributions shall be in accordance with the rules stipulated in the plan as governed by the State of Minnesota and statutory limitations on the Employer's maximum contribution per year.

ARTICLE XIX. HOLIDAYS

- 19.1 Full-time employees shall be entitled to the following holidays with pay: employees or those working twenty (20) hours or more per week shall be entitled to the following holidays with pay pro-rated on the basis of hours worked:

New Year's Day	January 1
Martin Luther King's Birthday	3 rd Monday in January
President's Day	3 rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4 th
Labor Day	1 st Monday in September
Veteran's Day	November 11 th
Thanksgiving Day	4 th Thursday in November
Friday after Thanksgiving	4 th Friday in November
Christmas Eve Day	December 24 th
Christmas Day	December 25 th

- 19.2 If any of the above dates fall on a Sunday, the following day shall be the holiday, if the holiday date falls on a Saturday, the preceding day shall be the holiday.
- 19.3 Temporary employees shall not be entitled to holiday pay.
- 19.4 Employee's required to work on holidays shall be paid one and one-half (1½) times the employee's base pay rate for hours worked in addition to the employee's base pay.
- 19.5 Employees shall be required to work their last regularly scheduled work day prior to the holiday and their next regularly scheduled work day after the holiday to qualify for holiday pay, unless the employee is absent due to illness, accident, on vacation or approved compensatory time.

ARTICLE XX. VACATIONS

- 20.1 Full-time employees shall be entitled to receive vacations in accordance with the following provisions. Vacations may be taken in less than eight (8) hour periods if desired, but not in less than four (4) hour periods. Employees may not accumulate more than two hundred and forty (240) hours vacation. Vacation pay is to be paid at the employees current hourly rate. Earned accumulated vacation shall be payable upon severance up to a maximum of two hundred and forty (240) hours. Employees must have their vacation balance reduced to 240 hours, or less, by the last pay period in December of each calendar year.

- 20.2 Forty (40) hours after satisfactory completion of probation period consisting of six (6) months of continuous service; additional forty (40) hours prorated to completion of first year service.
- 20.3 Eighty (80) hours for each of two (2) through five (5) years of service.
- 20.4 One hundred and twenty (120) hours for each of six (6) through ten (10) years of service.
- 20.5 One hundred and sixty (160) hours for the eleventh (11) and each succeeding year of service.
- 20.6 Part-time employees shall earn vacation hours pro-rated on the basis of hours worked. Part-time employee working under twenty (20) hours per week are not eligible for any employee benefits.
- 20.7 Employee must submit vacation requests to their supervisor.

ARTICLE XXI. SICK LEAVE

- 21.1 Sick leave shall accumulate at the rate of eight (8) hours per month for full-time employees to a maximum of six hundred and forty (640) hours.
- 21.2 Part-time employees regularly scheduled for twenty (20) hours or more per week shall earn sick leave on a pro-rata basis; employee working less than twenty (20) hours per week are not eligible for any employee benefits.
- 21.3 Temporary employees shall not be entitled to sick leave benefits.
- 21.4 An employee shall be granted sick leave with pay to the extent of his/her accumulation for absences necessitated by reason of illness or disability; by necessity of medical, chiropractic or dental care; or by exposure to contagious disease so that his/her attendance on duty may endanger the health of fellow employees or the public. Sick leave shall also be granted with pay to the extent of employees or the public. Sick leave shall also be granted with pay to the extent of an employee's accumulation for absence necessitated by illness of the following persons: his/her spouse, dependent children, stepchildren, foster children, parents or stepparents for periods as his/her attendance may be necessary. It shall also be granted for the illness of a minor child, whether or not the child lives in the household, for such periods, as his/her attendance may be necessary. Sick leave to arrange for necessary nursing care for members of the family or birth or adoption of a child shall be limited to not more than fifteen (15) days. Upon the request of the employee, a birth mother shall be allowed to use six (6) weeks or more, if certified as necessary by a medical provider, of accumulated sick leave for the birth of a child.
- 21.5 One-half (½) of unused sick days accumulated up to six hundred and forty (640) hours maximum is payable upon severance. (Maximum number of sick hours payable upon severance would be three hundred and twenty (320) hours.)

ARTICLE XXII. FUNERAL LEAVE

In the event of death in the family of the employee, (spouse, parents, child, brother, sister, stepchildren, son-in-law, daughter-in-law, brother-in-law, sister-in-law, the employee shall be granted up to three (3) days leave with paid time to make the necessary funeral arrangements and attend the funeral. Grandparents and grandparents-in-law, the employee shall be granted up to two (2) days of leave with paid time to make necessary funeral arrangements and to attend the funeral. Additional time may be granted due to unusual circumstances such as, but not limited to, excessive distance of travel, etc. This additional time will come out of the employee's vacation accruals, sick time, or comp time as determined by the Employer.

ARTICLE XXIII. TUITION REFUND

- 23.1 Employees will be reimbursed for the full tuition only for courses taken at the post-high school level.
- 23.2 In order to qualify for reimbursement, the following criteria must be met:
- A. Course work must be related.
 - B. Prior approval from the supervisor must be obtained before course is taken.
 - C. Course must be successfully completed; on graded courses, a grade of "C" must be attained.
- 23.3 Reimbursement for tuition shall be made only to the extent that the employee for any other tuition program has not received reimbursement.
- 23.4 Reimbursement for schooling under this program shall be limited to a maximum of \$250 per employee per calendar year.

ARTICLE XXIV. WAIVER

- 24.1 Any and all prior agreements, resolutions, practices, policies, rules and regulations regarding terms and conditions of employment, to the extent inconsistent with the provisions of this Agreement, are hereby superseded.
- 24.2 The parties mutually acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any terms or conditions of employment not removed by law from bargaining. All agreements and understandings arrived at by the parties are set forth in writing in this Agreement for the stipulated duration of this Agreement. The Employer and the Union each voluntarily and unqualifiedly waives the right to meet and negotiate regarding any and all terms and conditions of employment referred to or covered in this Agreement or with respect to any term or condition of employment not specifically referred to or covered by this Agreement, even though such terms or conditions may not have been within the knowledge or contemplation of either or both parties at the time this contract was negotiated or executed.

ARTICLE XXV. DURATION

This Agreement shall be effective as of January 1, 2010 and shall remain in full force and effect until the 31st day of December, 2012. The provisions of this Agreement shall continue in effect unless mutually amended by a subsequent negotiated agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this ____ day of _____, 2010.

CITY OF EAST BETHEL

MINNESOTA TEAMSTERS LOCAL #320

Mayor

Business Agent

City Administrator

Union Steward

Date _____

Date _____

APPENDIX A

EAST BETHEL GENERAL UNIT 2010 - 2012 WAGE SCHEDULE

January 1, 2010

The Pay Table and pay rates will not be adjusted with a COLA increase for 2010 nor will steps be granted. Employees and their respective wages, as covered by this agreement, shall remain the same as those paid in 2009 for 2010.

Wage Reopener Clause

Wages for 2011 and 2012 shall be subject to negotiations during 2010 and/or 2011 by either party by providing written notice by April 1, 2010 or April 1, 2011 of its intent to reopen wage negotiations for 2011 and/or 2012. Under this provision, the City and the Union may negotiate a pay rate increase and apply that rate increase to the Pay Tables in effect at the time of negotiation. The rate increase shall be calculated on any increase in the U.S. Department of Labor, Bureau of Labor Statistics, Series CUUR0000SA0, U.S. City Average Consumer Price Index – All Urban Consumers table for the twelve (12) month period beginning July 1 and ending June 30 each year of the Agreement. Any COLA increase negotiated for 2011 or 2012 shall be subject to a cap of 3.00%.



City of East Bethel City Council Agenda Information

Date:

January 6, 2010

Agenda Item Number:

Item 7.0 G.2

Agenda Item:

2010 Commission/Committee Assignments

Requested Action:

Consider approving 2010 Commission/Committee Appointments

Background Information:

The list of commission and committee assignments was provided with the December 4, 2009 UPDATE and again in the agenda material for the December 16, 2009 City Council meeting. This item was tabled until the January 6, 2010 meeting.

We have provided a list of Commission/Committee Assignments from 2007-2009 and space for 2010 assignments.

Attachments:

- 1. Commission/Committee Assignments from 2007-2010

Fiscal Impact:

None

Recommendation(s):

Staff requests Council direction.

City Council Action

Motion by:_____

Second by:_____

Vote Yes:_____

Vote No:_____

No Action Required:_____

<u>Position/Function/Activity</u>	<u>2007 Appointment</u>	<u>2008 Appointment</u>	<u>2009 Appointment</u>	<u>2010 Appointment</u>
Acting Mayor	Council Member Boyer	Council Member Voss	Council Member Voss	_____
Road Commission	Council Member Klein	Council Member Voss	Council Member Paavola	_____
Park Commission	Council Member Voss	Council Member Boyer	Council Member Boyer	_____
Planning Commission	Mayor Hunter	Council Member Paavola	Council Member Voss	_____
Watersheds	Council Member Paavola	Council Member Paavola	Mayor Hunter	_____
Cedar Creek Committee	Council Member Boyer	Council Member Boyer	Council Member Boyer	_____
Sandhill Crane Committee	Council Member Boyer	Council Member Boyer	Mayor Hunter	_____
Fire Department	Council Member Klein	Council Member Klein	Council Member Paavola	_____
Police Liason	Council Member Paavola	Council Member Klein	Council Member Voss	_____
Booster Day Committee	Mayor Hunter	Mayor Hunter	Mayor Hunter	_____
Booster Day Committee	Council Member Boyer	Council Member Boyer	Council Member Boyer	_____
Finance Committee		Mayor Hunter	Council Member Boyer	_____
Finance Committee		Council Member Klein	Council Member Klein	_____