

EAST BETHEL CITY COUNCIL MEETING

January 19, 2011

The East Bethel City Council met on January 19, 2011 at 7:30 PM for their regular meeting at City Hall.

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

ALSO PRESENT: Dave Schaaf, Acting City Administrator
Mark Vierling, City Attorney
Craig Jochum, City Engineer

Call to Order **The January 19, 2011 City Council meeting was called to order by Acting Mayor Moegerle at 7:30 PM.**

Adopt Agenda **DeRoche made a motion to adopt the January 19, 2011 City Council Agenda. Voss seconded.** Boyer said we need to add an item to the agenda so we can go to a closed session to discuss a land deal with GRE. Moegerle asked do we have paperwork on that. Boyer said yes, and he presented this to Schaaf last Wednesday. He said he believes we have a land application and we are going to bump up against the 60-day application limit if we don't deal with this. Boyer said he could outline this fairly quickly, there are two alternatives, but this is germane to the recommendations. Vierling said he met briefly with Boyer and he needs to get more data from him before we determine the process so he suggests you hold this as an item on the agenda and recess for 10 minutes so he can discuss this further with Boyer and he will come back and advice you after the recess. Moegerle asked is this appropriate for a closed session. Vierling said he will determine that when we recess, he can advise you then whether you it is appropriate. Add under 8.0 F.2 Recess to Consider GRE Closed Session. Moegerle said she wants to add 8.0 G.4 Landform Consultants, Third Party Review/Risk Assessment and 9.0 A.3 Closed Session – Discuss Former City Administrator Settlement. Voss asked he would like to add discussion of HRA Lawsuit, closed session. Vierling said if you had representation here then you could do so, but you don't have representation, so you cannot go into closed session. Voss said so with the rumors going on tonight about discussion of settlement negotiations; he would like to discuss this in open session. Moegerle said so we will add this as Item 8.0 F.3 HRA Lawsuit. Voss said also we were handed a letter tonight and were also e-mailed it from Met Council and he would like to add it as Item 8.0 G.5 Met Council Letter. Moegerle asked Vierling if this is something we should discuss in Executive Session. Vierling said he has not had an opportunity to review it. He said if he had an opportunity to review it, he could comment on it. Vierling reviewed the letter and then said he determines that not to be a closed session item. Voss said also he doesn't know if this would be under attorney fees, and he had asked to have this on the agenda, but he would like a broader discussion on this, discussion on going out for proposals for attorney services. Voss said can we do it right after the attorney's fees, as a separate item. **DeRoche amended his motion to include all the additions to the agenda as follows: Item 8.0 F.2 Recess to Consider GRE Closed Session; Item 8.0 G.4 Landform Consultants, Third Party Review/Risk Assessments; Item 9.0 A.3 Closed Session – Discuss Former City Administrator Settlement; Item 8.0 F.3 HRA Lawsuit; Item 8.0 G.5 Met Council Letter; Item 8.0 G.3 A Legal Services RFPs. Voss seconded the amendment; all in favor, motion carries.**

Lieutenant Orlando reported on the custodial arrests/significant arrests for the month of December 2010 as follows:

12-02-10 - 5th Degree Possess Controlled Substance / Warrant arrest – A Deputy stopped a vehicle for a traffic violation. While running a check on the driver, he was found to have a misdemeanor warrant. The deputy handcuffed the male, at which time the male began to resist. The deputy was able to get the male under control and into the squad with the help of a passerby and several other officers. The male was found to be possessing methamphetamine and marijuana. The male was taken to jail.

12-03-10 - 5th Degree Domestic Assault - Deputies were called to a domestic assault, where the victim's live-in girlfriend had punched him in the nose after an argument. The boyfriend advised the girlfriend was mad at him because he was working in the garage. She came out and yelled at him and then punched him. The girlfriend was arrested and taken to jail.

12-10-10 - Misdemeanor Theft / Under-age Drink and Drive - A deputy, while parked at a business doing paperwork, noticed some suspicious activity occurring. A pick-up truck with no license plates visible, had pulled up to a gas pump, and the male passenger, with a hood over his head, pumped gas and then the truck took off at a high rate of speed. The deputy stopped the vehicle, as the store was calling in a no-pay report. The driver had been drinking and neither the driver or passenger had money to pay for the \$57 worth of gas that they had pumped. Citations were issued to both the driver and passenger.

12-18-10 - 5th Degree Domestic Assault - Deputies were called to a delayed domestic assault report. The live-in girlfriend of the suspect advised she is a victim of on-going domestic assault. She advised that today her boyfriend had been mad at her, after coming home high on methamphetamine and had thrown a mug filled with coffee at her while she was trying to leave. She advised that she had been able to leave, but is in fear of her boyfriend. The boyfriend was located and taken to jail.

12-20-10 - Gross Misdemeanor DUI / Hit & Run Accident - A deputy responded to a hit and run traffic accident on Hwy 65 and Viking Blvd. The victim advised that a truck was turning onto Hwy 65 from 187th Ln, and had come into her lane of travel and struck her vehicle. She followed the vehicle and was able to obtain a license plate number. Another deputy located a vehicle matching the suspect vehicle description, driving erratically, with no headlights on. The driver was found to be intoxicated. The driver failed field sobriety tests and refused to take a test to determine his blood alcohol level. The driver was jailed.

Lieutenant Orlando said domestic calls (non-crime) for the month were fifteen (15) and DWI arrests for this month were eight (8).

Boyer said he was told that you were not going to be presenting monthly reports at our meetings, that the Council had asked for your reassignment. Lieutenant Orlando said yes, her direction from the City Administrator is that she won't be presenting them. Boyer said he wanted to thank you for your service; he thinks every resident is better off for having you here. Moegerle asked on page 2 of our report what is extra patrol. Lieutenant Orlando said extra patrol is if she gets calls for extra patrol such as if people have seen suspicious activity and want the squads to drive through more often and then they just document that. Moegerle asked what is aids and agency public, what does that include. Lieutenant Orlando said aids

to the agency is if you are looking at CSO stats, assisting deputy and go sit waiting for a tow or if they direct traffic and aid to the public is such things as if they assist when a vehicle is broken down. Schaaf asked Lieutenant Orlando is your relationship to City going to change at all. Lieutenant Orlando said no. Schaaf said you will still be responding to calls. Lieutenant Orlando said she just won't be giving monthly reports. She said she will be attending the meetings, but probably not in uniform. Moegerle said great.

Resident asked if the recreational officers had been in area patrolling for snowmobiles. Lt. Orlando yes, we have spent all of our overtime, all of our snowmobile grant. She said it seems a lot of people don't know about their snowmobile safety certificates.

Recognition
of Service –
Greg Hunter

Moegerle said at this time the City Council would like to recognize the service of the 2010 retirees. She said we would like to recognize Greg Hunter for his years of service. Mr. Hunter has served the City as Mayor since 2003. Schaaf read the plaque presented to Greg Hunter as follows: Presented to Greg Hunter by the City Council in Appreciation for his Dedicated Service and Commitment to Excellence. On behalf of the Citizens of East Bethel, we thank you for your leadership and your many contributions to our community.

Mayor Hunter said thank you he appreciates this a lot, he had a lot of people coming up and saying thank you and that means a lot more than this plaque.

Steve Channer

Moegerle explained this is in recognition of Steve Channer for his years of service on the City Council he served on the City Council since 2010. Channer said he has lived here for seven years and this has become his hometown. He said he served on the Planning Commission before serving on the City Council.

Kathy Paavola

Moegerle said this is in recognition of Kathy Paavola, she has served on the City Council since 2003, and this is to honor her for her years of service. Paavola said thank you, she appreciates this. She said without the support of her family and friends and supporters she couldn't have done this, it takes up a lot of time.

Public Forum

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

Jill Teetzel of 20913 Rendova Street NE said she may look familiar to many of you because she takes the commission meeting minutes, and many don't know but she has twelve years experience in City government, is certified as a municipal clerk, she worked her way up until she was a city administrator. She said she is very concerned about the actions of the Council since they were sworn in and she would like to touch on four of these actions. The first would be lack of response to an e-mail she sent to the Council Members. She read the e-mail, she said for the audience's reflection. Teetzel said this e-mail states her concerns about the interim City Administrator and in City Code, Chapter 2-261, 2-262 and 2-263 which references how a City Administrator should be chosen and what qualifications he should have including knowledge and abilities. She said in reviewing the code it seems Mr. Schaaf does not meet the code to be employed based on his knowledge and abilities. Teetzel said previous to this hiring, all jobs were advertised, applications submitted, interviews completed and background checks were done. She asked who conducted a background check or a criminal check.

Teetzel said secondly she is concerned about the hiring of the City Attorney. The new attorneys service fees are considerably higher the former attorney, no request for proposals

were not solicited. The Minnesota State Auditor has stated pertaining to the City of Greenfield that the state auditor suggests that cities go through the “request for proposal” process instead of just hiring your own attorney which is what the City of East Bethel did. She said today a contract is being proposed.

Teetzel said the third item she would like to address is an employee luncheon. She was advised that staff and council had a luncheon to discuss changes in the City and that either Fat Boys donated the lunch or that the City paid for the lunch. Teetzel said either way the lunch was illegal. She made a request for the information on the luncheon, who was present, how the lunch was paid for, and what was discussed. Teetzel said additionally the City’s past practice was for the City’s supervisor’s to pay for lunches for the employees and this has been the past practice since 2001/2002.

Teetzel said last the Council agenda that was published for the previous Council meeting and the Council decided to trash in lieu of their own agenda for the meeting. She said she knows that you state that staff would not put anything on the agenda as you requested. Teetzel said you could have scheduled a special meeting and published the agenda, that way everyone would have known what was going to be discussed. She said the new Council ran on a pledge to be upfront, honest and not cost the taxpayers more money. Additionally, one of the new Council Members ran on a pledge to be ethical and even went so far as to put an ethics policy together that was discussed at multiple Planning Commission meetings. She said at this point all she has seen is backroom deals and very little ethics display. Teetzel said you should take a look at your actions; she is afraid we will be on the front page of the Star Tribune and you will cause many lawsuits.

Josh Sturman of 226 Elm Road NE said as far as Coon Lake improvements, he forwarded an e-mail titled “Water Sustainable Framework” and if you were looking for avenues to get funds, this is a guideline to get funds, clean water funds, about \$10,000,000 from sales tax.

Greg Hunter of 3719 Viking Blvd. NE said he just wondered if Larry Martin is still employed. Moegerle said of course. Hunter said because on 65 it seems our sign ordinance is getting lax. He said the Village Bank sign is going off every three seconds and all of a sudden we have a bunch of temporary signs that is why he was wondering if Larry is still employed. Moegerle said and this has started happening since January 5th. Hunter said yes, it has. Moegerle said we will get Larry on it.

Denise Lachinski of 22286 Vermillion Street NE said she has some questions on this letter regarding the attorney, she is not sure if this is the appropriate time to bring it up. She said the legal fees, she recalls at the January 5th meeting Mr. Snyder said their fee would be \$140 is this including mileage. Lachinski said and if other employees come, will they be able to charge us mileage. She said for \$400 a meeting what is she getting. Moegerle said we will be discussing that under attorney fees. She said it will be brought up and explained.

Doreen and Mike Murray of 19523 Jackson Street NE said they would like to welcome the new Mayor and Council Members it is a hopeful and refreshing beginning for people that had issues in the past and tenacity in the past. Murray said we literally had to speak with our feet in the election to get our voices heard. She said she still feels there is a huge divide of what the big business supposedly wants and ordinary, everyday people want. Murray said she hopes that the new City Council will take a long look at the sewer and water project in these economic times and if you are an East Bethel resident and you think that your property will not be affected, think again, they are putting up a 350 foot water tower, two wells and a water treatment plant and it really will come out of our pockets, it will affect our property taxes, in higher City fees, or some kind of assessments. She said the property owners need to

start thinking realistically.

Murray said also if you have person that is going to put up a garage with a variance it would be nice to get some kind of notice. Boyer said if you are adjacent you should have gotten a notice. Mike Murray said originally the property we are talking about said they were mining, then it was cattle, etc., we never got a notice. Voss said that wasn't affected by zoning. Murray said it was misleading stating it was going to be used for one thing, and then it was for another thing. Voss said when he did the mining thing; he had to do a ghost plat. Murray said it has gone from one thing to another thing to another thing. Doreen Murray said and now it is water treatment plant and she thinks it will adversely affect her property.

Sally Boyer of 3303 Luan Drive NE said she very much hopes you do not undo the water treatment plant. She said she has been a commercial lender for almost 25 years and a while ago when she worked for a bank someone approached us for a commercial loan and when they found out that sewer and water was so far away they decided not to pursue the loan. Boyer said she does not personally think you have backed up your figures of \$50,000 in your flyer and she would like to know where you came up with those numbers, and how much was for water, how much for curb, etc. She would like it compared to what the other City Council did and she would like to see an apples to apples comparison. Moegerle said she thinks that is something you will be seeing soon. Boyer said she is disappointed in the disruption we have seen since the three new members have taken their position. She said and not just because she is a banker. Boyer said the former Council Members spent several years forming this plan, and she would like you to take at least half this much time to form your plan. Moegerle said the plan is not cancelled, it is merely suspended.

Steve Channer of 21572 Tyler Street NE said he want to go back to the meal. He said he knows this is a little thing, and he understands as a public employee how this happens, but he sees in the packet this was charged to professional service fees. Channer said he understands you have to code it to something. He asked who was present. Moegerle said she was, she answered the phones. DeRoche said he was present, and Lawrence said he was present. Voss and Boyer said they were not present. Channer asked if any City business was discussed. DeRoche said no.

Tiana Channer of 21572 Tyler Street NE said it looks like towards the end of the meeting there will be discussion about the City Administrator compensation and in the packet that was distributed there was no information about this item and she is a little naive, but it seems to her there should have been information about this. Schaaf said he did not have the information ready in time for the packet. Channer said this is public information correct, because there was lots of discussion about the former City Administrators compensation. Boyer said he sees a pattern here. Moegerle said excuse me, but we are in the public forum here, we need to stay on task. She said certainly you will have the time to address that on the agenda. Boyer said the citizen has a valuable point, the agenda has no contract for Mr. Schaaf, we are running this agenda on a mission. Moegerle said Council Member you are out of order.

Jason Anderson of 20319 Rendova Street NE said you stated no City business was discussed at the luncheon. He said he doesn't have the e-mails with him, but two Council Members said that the luncheon was held to inform employees of what was going on. Anderson said that is City business; there were three of you in this building. He said to him that doesn't smell right.

Christine Howe of 22314 7th Street NE said she is glad you are not stopping but halting, taking a step back and taking a look and seeing if this going to cost me money. She said if

this is going to cost me money, I want to know. So, she wants to thank you.

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

Consent
Agenda

Council decided to take the Consent Agenda items one by one.

Approval of Bills - Voss made a motion to approve the January 19, 2011 Bill List. DeRoche seconded. Boyer asked under whose authority was the lunch provided to employees, who authorized the expenditure of the funds. Schaaf said he did. He said he believes you are voting tonight on whether to pay the bills. Boyer said you are not authorized to spend the funds, now you have left me no option but to either stiff a local business or pay the bill. He said you have spent funds illegally. Schaaf said are you familiar with how the City operates, he has authority to do this. Moegerle said she would caution him about calling this illegal. Boyer said we have as a City been cautioned about this in the past by the state auditor office. He said as a matter of history, the City used to provide every employee with a holiday gift certificate and we were informed by the state auditor's office that it was illegal, and giving them anything would be illegal. Schaaf said on January 5th some very strong actions were taken including eliminating staff, etc. and we met with the employees, explained changes to the staff and he did this on the recommendation of others in public administration. He said we had a great meeting, he introduced himself to staff, and we had volunteers to help facilitate this, some volunteers helped serve at the meeting, and volunteers answered phones, and as he understands good public administration, this was a good thing to do. Schaaf said if this was wrong he will reimburse the City. Voss said in terms of a meeting, this was a good thing to do, but it would have been better to invite all the Council Members. Boyer said you arranged this before the Council meeting and didn't tell Council about it. He said is this a bad Bill Clinton imitation. Schaaf said the Council meeting was January 5th. He said it is time in the best interest of the City to move on. Boyer said you certainly didn't tell Voss and me about it.

Vierling said in terms of meeting with the staff this wasn't illegal. He said in terms of the expenditure of funds, the auditor of the State of Minnesota has taken a very conservative position and many employers do some form of recognition programs that include training which include coffee, cookies, sandwiches, etc, that is the reality in which we live. Vierling said but most cities do some form of a recognition program. He said it is really an amount that is of dominium value. Schaaf said he mandated them to be there, they didn't have any choice. Boyer said you could have mandated them to be there without lunch. Voss asked why they weren't contacted. Voss asked about the bill for Blaine Lock and Safe, why were the locks changed. Schaaf said this was done for safety purposes, following the January 5th Council meeting. DeRoche said Boyer you remember you left that meeting. Voss said during the meeting you had locks changed or after the meeting. Schaaf said if the Council would like to direct staff when they can buy pencils and paper. He said this was done after the meeting. Schaaf apologized for his comment. Voss asked is there a reason you couldn't brought it up. Schaaf said there was an item on the agenda January 12, 2011, Administrator/Council Relations, under the authority the administrator had this is not a Council agenda item; if you want the administrator to act differently we need to discuss this. Boyer asked who was provided with keys. Schaaf said everyone who needed access to the City. Boyer asked was he provided with keys, was Mr. Voss provided with keys. He said he is noticing a trend here. DeRoche said you keep bringing up a trend. He said what was brought up in the workshop has everything to do with what the Administrator is doing now, it seems that everything is becoming a hijack at this particular meeting and if you wanted to bring it up, why wasn't it brought up at the general workshop, and it could have been

discussed, if you want to air dirty laundry in the open public, I think it is an embarrassment to the City. Boyer said he agrees with him. DeRoche asked then why was it not brought up in the workshop. Boyer said it needs to be brought up in a regular Council meeting so it is broadcast, certain members are getting the information and certain members are not, and if that is the road we are going down this City is going to be looking at a lot of different lawsuits. Moegerle said Mr. Boyer you are entitled to your opinion, but I object to your mischaracterization of what has occurred. She said now people have given you a reasonable explanation and you have chosen to take that way. Boyer asked where are the keys that were provided to me. Voss said he asked why he wasn't given keys and was told it was an oversight. Moegerle said she doesn't want keys. Schaaf said if you want keys you will be provided with keys. **Boyer, nay; DeRoche, Lawrence, Moegerle, Voss, aye; motion carries.**

Meeting Minutes, January 5, 2011 – Voss said he has a change on page 4, top paragraph, line 4 from the bottom, add City Administrator to make it clear who we are discussing. Moegerle said it is made clear in the next sentence. Schaaf said when you talk about the minutes you need to remember they are motions and seconds and votes. He said if the motion is not clear or correct that we should address that. Schaaf said that is what is important; the rest of verbiage has no force and effect on the law. Voss said in this case a lot of this is verbatim. He said he thinks this is important because the City Administrator had a choice of whether this was open or closed and the Assistant Administrator didn't. Schaaf asked if he may, Mr. Vierling said the legal actions are the motions themselves. He said the minutes are a matter of choice of body, how descriptive you want to be, but the actions are the motions. Boyer said but the description is subject and can be brought up in a court of law. Vierling said and lots of times that is why Council's choice not to be so descriptive in their minutes, more brief. Voss said at the time we were talking about multiple positions. DeRoche said he is surprised this subject has come up, when he questioned the minutes before; he was told someone determined if certain information should be in there. Voss said this is pretty close to a transcript. Voss said there is a typo on page 6, bottom of page, second sentence, and change liability to viability. Voss said having been sued a couple times in the City it is important what is in the minutes. Moegerle said on page 6, third paragraph **East Bethel** needs to be capitalized, and on page 10 under Designating Official Depositories and Newspaper it says Designate, change to Designating and again on page 10, under Board of Health, it isn't capitalized. She said on page 11, third paragraph, second sentence, change precursory to cursory gave her changes. DeRoche said he has a change on page 9, third paragraph, 5th sentence, change 20 years to 28 years. **Boyer abstained; rest in favor, motion carries.**

Approve 2011 Residential Recycling Agreement with Anoka County - Voss made a motion to approve the 2011 Residential Recycling Agreement with Anoka County. DeRoche seconded. Moegerle said the goal is in tons, which was not clear to her at first so she wanted to point that out. **All in favor, motion carries.**

2011 Animal Control Contract – Moegerle said she reviewed this contract and she had some questions, so she would like to table this until February 3, 2011. **Moegerle made a motion to table the 2011 Animal Control Contract until February 3, 2011. Boyer seconded; all in favor, motion carries.** Voss asked so the existing contract stays in force until then. Moegerle said yes, our Building Official contacted Ms. Gimpl and assured me that it will.

Resolution 2011-05 Approving an Application with No Waiting Period for An Exempt

Permit for Cedar Creek Community School PTO to Hold a Raffle – April 9, 2011 – Boyer made a motion to adopt Resolution 2011-05 Approving an Application with No Waiting Period for An Exempt Permit for Cedar Creek Community School PTO to Hold a Raffle on April 9, 2011. DeRoche seconded; all in favor, motion carries.

FEMA Fire Safety and Prevention Grant - Voss made a motion to direct staff to move forward with preparing the FEMA Fire Safety and Prevention Grant. Boyer seconded. Boyer said he would like to say our Fire Chief has been very good at getting grants for the City; he has gotten about \$600,000 in grants for the City. **All in favor, motion carries.**

Planning
Comm.
Minutes

Moegerle explained that the unapproved meeting minutes from the December 28, 2010 Planning Commission meeting are provided for your review and information.

Appoint
Planning
Comm.
Members

Moegerle said a resident brought up that candidates were interviewed that applied after the advertised deadline, is there any legal liability with interviewing candidates that applied after the deadline. Vierling said they are area volunteers that serve at the pleasure of the council and it is your opportunity to do this. The Council conducted a straw poll amongst themselves to determine which applicants would be selected to serve on the Planning Commission.

Voss made a motion to appoint the following to the Planning Commission with terms as indicated: Eldon Holmes for a term beginning January 2011 until January 31, 2014, Brian Mundle for a term beginning January 2011 until January 31, 2014 and Dale Voltin for a term beginning January 2011 ending January 31, 2012. DeRoche seconded; all in favor, motion carries.

East Bethel
Water
Treatment
Facility Site
Plan Review

Hanson explained according to State Statute 15.99 the City needs to approve or deny a written request within 60 days. She said she spoke with Vierling and he recommended that Schaaf do a written request for a 60 day extension. Hanson said this will give Council until April 12, 2011 to complete the request. She said at this time, Council can act on Schaaf's request for an extension or they can go ahead and act on the written request and she can proceed with her presentation. Schaaf said the City is building something in the City and we are asking ourselves to get an extension. He said you are asking yourself for authority for an extension on your building. Voss said he understands why the extension on the building because of the suspension, but he doesn't see the any harm in approving the site plan tonight; it doesn't mean it is going to move forward.

Schaaf said weren't the bid specs put out on the water treatment facility that came in 33% high and in 10 days a bunch of stuff got ripped out and it was rebid in that short time. He said even though it will still be a water treatment facility, he would think we would want to take a look at that and we might want to put some things back in, and the plan might change. Voss said if it changes, it changes, but wouldn't it be better to have it done. He said Council is not suggesting any changes right now, and it meets all requirements that a site plan needs to meet, but one of the comments he made to the engineer is it would be nice to see how it would look from the highway and we got that. Boyer said he doesn't like granting extensions, especially to ourselves, because everybody expects then. Moegerle said she doesn't understand your concerns about granting an extension, generally especially to residents. Boyer said he hasn't thought through the ramifications of this, and once we have done this, he knows where this is going to lead. Voss said Council has been cautious to grant

ourselves an extension, we need to follow our own ordinances. Vierling said you are merely granting yourself an extension to the time period in which you have to make a decision, so even if you grant an extension it doesn't mean you can't take final action well before that. He said by law if you don't take action before the end of the 60 days, the application is deemed approved. Schaaf said recommendation by me and staff is that it is tabled, whatever Council chooses to do, they can do.

Moegerle made a motion to table request of the City of East Bethel for site plan review for construction of the City of East Bethel Water Treatment Facility at 19458 Taylor Street NE. Lawrence seconded. Voss and Boyer, nay; DeRoche, Lawrence, and Moegerle; aye; motion carries. Voss said he suggests you bring this back to the first Council meeting in February with a resolution granting the 60 day extension. Vierling said if you intend to grant the additional time, you should preserve that as part of your motion. Voss said we have a form letter.

DeRoche made a motion to grant a 60 day extension to the City of East Bethel for their site plan for the construction of the City of East Bethel Water Treatment Facility at 19458 Taylor Street. Moegerle seconded. Voss and Boyer, nay; DeRoche, Lawrence, and Moegerle, aye; motion carries.

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| Park Comm. Minutes | Moegerle explained that the December 8, 2011 Park Commission unapproved meeting minutes are provided for your review and information. |
| Appoint Park Commission Members | The Council conducted a straw poll amongst themselves to determine which applicants would be selected to serve on the Planning Commission.

Voss made a motion to appoint Tim Hoffman, Susan Jefferson and Denise Lachinski to the Park Commission all for terms beginning February 1, 2011 through December 31, 2013. Boyer seconded; all in favor, motion carries. |
| Road Comm Minutes | Moegerle explained that the unapproved meeting minutes from the December 14, 2010 Road Commission meeting are provided for your review and information. |
| Appoint Road Commission Applicants | There were only three applicants for these positions. Voss made a motion to appoint Al Thunberg, Brian Bezanson and Kathy Paavola to the Road Commission for terms beginning February 1, 2011 through December 31, 2013. Boyer seconded; all in favor, motion carries. |
| Identification of Storm Water Improvement Projects – Coon Lake | Jochum said this project was discussed briefly at the January 5 th meeting. He said it was presented to Council. Jochum said there was a request to put in two weir structures and from there water flows to the ditch onto a second culvert. He said we estimated the cost of the project and construction for sediment removal. Jochum said and there were ten (10) similar other projects identified. He said we met with ACD yesterday and they had other ideas for projects. Jochum said what came out of the meeting was a regional water quality study should be done for Coon Lake. He said ACD has done these types of studies before for other watersheds. Jochum said Leon Mager has agreed to take the proposal to the other cities to consider. He said their is to do the study first to see how many projects there would be and which ones would give you the biggest bang for your buck.

Voss asked when they would have the study done. Jochum said for the Sunrise Watershed Management Organization (SRWMO) February 24 th meeting. He said they asked does staff want the proposal to come here first or go to SRWMO first. Voss said that is what he was |

asking. He said he thinks it would be good to have it go to the SRWMO first. Voss said then it gets to all the cities in the SRWMO. Jochum said one thing the study does is it identifies all the projects you have out there. Voss asked if there is any benefit down the road that we build this project as presented tonight as an example. Jochum said no, he would suggest that you would get more benefit for having a detailed study. Moegerle asked how do we build that consensus as a group, so we have that mass in that direction. Jochum said Leon Mager volunteered to do that and the SRWMO will do that. He said and if the Council directs him to, he can do that. Voss said that is why he suggested this. He asked do you need direction. Jochum asked do you want them to figure out who is interested, etc. Voss said in light of keeping things moving along. Schaaf said your concern is to get input from the SRWMO. Voss said the SRWMO is the one that covers southern portion of the City, so it needs to go through there anyways. Resident said there is a minimum of \$30,000 out there for grant funds, 70% in funds, and 30% in matching. Jochum said he is a firm believer that you have to have a regional plan to get the grants. He said he will have the study, in pounds per dollars.

Tierney said when they first put this in they dug down to the driveway, this was done in October of 1982 and they very next spring they filled it in and sodded and then put a planter out there. He said whatever you do, what is it to say it is not going to be messed with immediately to make his yard look better. Tierney said this has been cleaned out four times, three times by me. He said there is a depression in the road. Tierney said when they filled it in, they made a depression in the asphalt, and his actions caused harm to City. He said whatever we do needs to be protected so nothing happens to it. Voss said when this project gets to that stage; he trusts that you will remind us of that. Boyer said he remembers you reminding us of this. He asked did we notify the neighbors of this, it might be a good thing to do. Schaaf said there are environmental laws; we need to have a plan of action, so there is a regular inspection of these. He said it is going to be more and more important as we move forward. Moegerle asked do we need to amend our local water authority. Jochum said staff is addressing the local sunrise comments. He said we are way ahead of the SRWMO schedule. Jochum said if you put this as a priority in the plan, you score high. **Moegerle made a motion to amend the City Watershed Plan. DeRoche seconded.** Voss said what Jochum is saying once the plan is in place we can get grants, etc. **Moegerle withdrew her motion.** Josh Sturman asked is the SWPPP permit going to expire this year. Jochum said that is a separate program and is not an annual permit.

Code
Enforcement
Report

Moegerle explained that the code enforcement report is provided for your review and information.

Fire Dept
Reports

Moegerle explained that the monthly Fire Department reports are provided for your review and information. Voss said he just wants to comment that Council Member DeRoche is listed as the Fire Department liaison and we haven't appointed liaisons yet. Moegerle said she agrees, however, these aren't our minutes so we can't amend them. Schaaf said he was at the meeting and he indicated that there had not been an appointment.

Recess to
Discuss GRE
Closed
Session

Boyer said he is just going to fill everyone in. He said he sits on the task force for this; we have been meeting for a number of months. Boyer said Great River Energy is proposing to build a power line that would connect the Athens Township Substation to the Linwood Substation. He said this has been a need for future power needs in not only our City, but also in Athens and Linwood, and Oak Grove and to provide redundancy in the system. Boyer said as part of our ordinance for this, GRE was required to provide alternative routes,

including a no build option. He said he doesn't speak for the committee but he doesn't think a no build option is a viable option. Boyer said there are two alternatives and one has certain inducements, things they would be willing to do for the City to get their preferred route which is basically by the University property and stays on the north side of the City limits. He said this is at no cost to the City, and they will be building a service road 8-10 feet wide and will build a trail for the City on that road and will build a trail on Durant Street to Fish Lake as an inducement. Boyer said there are other items that the 8-10 landowners along here could ask for. He said there is another favored alternative that jogs around the City. Voss asked these two you brought up, whose preferred paths are they. Boyer said GRE's. Moegerle asked do you have anything in writing from GRE. Boyer said no, he would expect that we would proceed just like we do with any other developer, enter into a development agreement and those would be the things to be negotiated. He said but if Council isn't in agreement, then we would have an issue. Boyer said we are also running against the 60 day clock. Moegerle asked if Boyer could get Council a document distributed to them. Boyer said it is an awful big document. Schaaf asked what involvement has the City staff had in this so far. Boyer said the City Planner has been at every meeting. Schaaf said does he understand the task force likes either Plan A or Plan B. Schaaf said he will work with Council Member Boyer and the City Planner on this. Boyer said we have had discussions on re-landscaping, and other additional benefits and GRE seemed amenable.

HRA Update

Schaaf said he is trying to decide what is appropriate for open session. Voss said it sounds like there have been meetings, who have they been with. Schaaf said with County staff members. Voss asked have you met with the County Attorney. Schaaf said yes, he met with the County Attorney. Moegerle asked was that a fact finding mission. Schaaf said yes, he needed to understand this. He said he was initially there to gather facts on a different issue and somebody said, oh why are you suing us and so I wanted to learn about it. Boyer said technically we aren't suing them, we won. Schaaf said right, we are in litigation. Vierling said it is still in litigation Council Member. Schaaf said he is one of those that thinks we can always sue, but if we can work something out it might be better. He said and in my view, this is my view, there may be a way to arrive at a way that all parties can feel good about. Voss asked was that discussed with the County. Moegerle asked were there specifics discussed. Schaaf said this was discussed in a way. He said he has his own way of going about this. Voss said isn't the mere fact that you are there talking about a settlement when the county is appealing a judgment, why would the City suggest a settlement to the issue. Schaaf said as he understands what the Counties concerns are, if they could be accomplished without spending anymore money, this would accomplish an end to the problem. Voss said there is years of history behind this and without consultation with the City Council you are going ahead and meeting with the folks we are in litigation with and suggesting things that City Council hasn't even suggested to you or authorized you to make those statements. Moegerle asked have you represented that this is anything but your flying ideas. Schaaf said no. He said he is initially just trying to find out why were are here and what the problem is. Voss said that is fine, but why wouldn't you ask us. Boyer said or ask our attorney. Schaaf said prior to January 5th he had discussions with the incoming Council Members so he gathered that insight.

Voss said so you don't think going to the County and discussing negotiations, there must be some seriousness, must be some reason that you wanted to go to closed session. Schaaf said if you got the County to surrender would that be good or bad. Boyer said that would depend on the terms of the surrender. Voss said you are asking a circular question. He said you are negotiating on behalf of the City Council. Schaaf said he is not sure he is negotiating. Voss said for what other reason would you go meet with the County. Schaaf said the past actions

of the Council. He said would you love to have them keep suing. Boyer said what is more disturbing is you are not talking to the attorney that is handling this case. Moegerle said she understood Schaaf was over there on a different issue when he was pulled aside on this issue. She said she understands your concern, but she doesn't think we have heard enough for the two of you to realize your concerns.

Vierling said he talked to Mr. Hoff and the oral arguments for this case will be in front of court of appeals on February 10 and then matter will be under advisement. Voss asked and the reason why we couldn't go to closed session is the fact that Vierling is not the attorney on the case. Vierling said yes, you have to have your attorney present. Schaaf said when he originally talked to our City Attorney; he thought he would take over the lawsuit. He said but then he found out that Hoff was the representative. Vierling said and because he hasn't been able to review the file, he wouldn't really be able to advise you anyway. Moegerle said she is going to give you a short time to speak. Jill Teetzel said as co-partner in this lawsuit she said she should at least be allowed to speak. Teetzel said she represents the City's concerns for the residents. She said she e-mailed the City Administrator regarding the lawsuit. Teetzel said he responded that he was negotiating a deal. She said as a party in this lawsuit, she should know what is going on. Teetzel said she has been at every court case. She said every time the judge has said to Anoka County, you are wrong, go back, I don't want to see you again, we came back, and the judge told them again, we came back, and the County lost and now they are appealing. Teetzel said now he is going and trying to settle something that shouldn't be settled and is not in the taxpayers of East Bethel's best interest. Moegerle thanked her.

Boyer said he thinks we would be remiss if he doesn't point out that this lawsuit is about the County charging the residents \$201,000 after the court said they didn't have a right to charge them on their property taxes. Schaaf said the County has retained Fagre Benson and they have raised numerous new issues, and the City put \$50,000 aside to pay for this lawsuit. He said when he sent this e-mail he thought this was the direction we were going. Voss said the we you are referring to is the five member City Council and you are going to have times in life and government that you are going to be on the other side of the fence and it will not always be easy. He said he has been involved in enough litigation that you don't discuss this with your client. Schaaf said he asked to go into closed session to discuss this. Voss said you asked this tonight. Schaaf said he did a lot of fact finding and we will go into closed session when it is appropriate. Voss asked did you talk to anyone at the County about a settlement. Schaaf said no. He said he may have talked to others that could talk to him. Schaaf said he is not going to negotiate anything. He said he didn't commit anything. Voss said you have said it both ways. Schaaf said he doesn't know how to answer this to your satisfaction. Lawrence said we had a meeting at the County and talked to a person, not in charge, and they said you are spending \$50,000 on legal fees on this and you should be spending it other ways. Schaaf said even if we win, it doesn't mean the legislator isn't going to make a change and it will go another way. Voss said you are jeopardizing our litigation. Moegerle asked Vierling's opinion. Vierling said Schaaf as the Interim City Administrator is like the new kid on the block, and he is sure the County knows he doesn't have any authority to negotiate, and at this court level there is no settlement unless it is written down. He said he agrees that you want the attorneys directly involved in these issues, but many settlements happen because of conversations between clients or staff members that find their way up the chain. Vierling said he understands the issue, but at this point and time he thinks it is best to move on.

Moegerle said she understands Ms. Skepper was supposed to be here and she declined.

Schaaf said she didn't decline, per say, but the lawsuit imposes on what the County can and can't do with us. Voss asked was that Skepper's response. Schaaf said that was Skepper, yes. He said he thought it would be better to wait a bit to have her here. Schaaf said it was his judgment since we don't know what the relationship is going to be, until the lawsuit is done, it would be better to wait a bit. Voss said so we should stop doing anything with the County because we have a lawsuit with them. He asked wasn't she going to come present information on economic growth. Moegerle said right, that was her understanding. Schaaf said if you want information on economic growth he has suggestions on that. Voss said initially she was going to be at the work meeting, he said why not have her at the Council meeting so it is broadcast. Schaaf said he thought it wouldn't be appropriate, if it is his bad, it is his bad, is on him. Voss said so because of a decision he has made, the project is maybe going to be delayed even further. He said don't take direction on your own. Voss said there are certain things you have to do to run a City. He said he is concerned about what is going to happen between now and the next meeting.

SafeAssure
Contract

Moegerle asked Schaaf to address this item. Schaaf said he is not sure. Boyer said he works for the State of Minnesota. He said we are hiring an outside contractor, and he said most of this is freely available from the State of Minnesota. Boyer said the state gives free consultation services and the City got a grant on this. He said staff can call the state and see about this. Moegerle said this was discussed at the meeting with department heads and it was highly recommended. Boyer said he is in favor of having our workforce being the safest possible as could be.

Boyer made a motion to table the 2011 SafeAssure Contract. Lawrence seconded; all in favor, motion carries.

Set Meeting
Date for Local
Board of
Appeals and
Equalization

Vierling said most of the cities he works with have transitioned to the open book option, you can always go back to the other way, they get their meeting with the assessor and it is very well received. He said the assessor comes back to you with a final report. Voss asked if you go to the open book you don't have a meeting. Staff said that is correct. Voss said but they don't come back to Council. He said he would like to stay with Option One. DeRoche said so basically it is a public hearing with the assessor here. Boyer said the property owner can come before Council and say my property is valued to high, and I don't think my assessment is correct. Schaaf said but we are in a different economic value then we used to be, and five of you are sitting there now. He said he spoke with the former City Administrator and he indicated he thought open book was a good idea. DeRoche asked what does it take to get the training. Boyer said it is a 2 ½ to 3 hour training. Moegerle said she doesn't think we should be sitting in judgment on the taxpayers; this isn't something we should do. She said she doesn't think we can get trained on that. Voss said hates the idea of losing the ability. DeRoche asked if someone takes the training does that throw the open book option out.

Boyer made a motion to approve Council Member DeRoche to take the Local Board of Appeals and Equalization Training. Lawrence seconded; all in favor, motion carries.

Voss made a motion to adopt Resolution 2011-06 Setting the Meeting Date for the Local Board of Appeal and Equalization. DeRoche seconded; all in favor, motion carries.

City Attorney
Fees

Vierling explained that he sent a subsequent letter to his fee schedule. He said when Dave Snyder explained the fees at the January 5th meeting; he explained the fees in a different format. Vierling said the fees as he submitted them do not include any transportation expenses, so he is charging a flat rate for the meetings. He said he would be happy to do a

\$140 hour charge if you so desire instead of the \$400 per meeting charge. Vierling said also his form does not charge for photocopies or fax charges. He said he believes the City was paying just for photocopying \$15. Moegerle said she thinks phone calls from staff and Council is generally is not billed for because they want to encourage calls from staff and Council. Boyer said he assumes there is a standard form of agreement. Voss asked what is different from the letter that you sent out. Vierling said if you want to agree to \$140 an hour that is fine, but then there is a transportation charge. Boyer said he thinks the whole process is skewed. He said in terms of this, he doesn't see any fiscal impact on the write-up, and he knows the fees are roughly 40-50% higher than Randall and Goodrich. Boyer said he would expect to have fiscal impact included in the packet. Voss said we need a City Attorney, we need someone here. He said and Vierling has credentials, he comes from a respected firm. Voss said in the interim you tripled the cost of City attorney.

Voss made a motion to approve engaging Mr. Mark Vierling of Eckberg and Lammers as the City Attorney with rates as outlined in the letter dated January 14, 2011, with the understanding that staff will prepare an RFP for City Attorney Services for the next City Council meeting. DeRoche seconded; all in favor, motion carries.

Council gave staff direction to have the prosecuting attorney come to the next Council meeting and give an update.

Boyer made a motion to also go out for RFPs for prosecuting attorney. Voss said we just engaged our prosecuting attorney and there are not issues with the prosecuting attorney, why would we do this. **Boyer withdrew his motion.**

Since Council did not finish their agenda by 11:00 p.m. they decided to recess their meeting.

Voss made a motion to recess the January 19, 2011 meeting until Monday, January 24, 2011 at 6:30 p.m. DeRoche seconded; all in favor, motion carries.

Call back to Order

The January 19, 2011 City Council meeting was called back to order on January 24, 2011 at 6:30 p.m. by Mayor Lawrence.

Lawrence made a motion to add a Closed Session – ACHRA Lawsuit at 7:00 p.m. Moegerle seconded; all in favor, motion carries.

Landform
Third
Party/Risk
Assessment
Proposal

Schaaf said we have a proposal from Landform before us for a Third Party/Risk Assessment. Voss asked why this was added to agenda. Schaaf said this part of the discussion is about what is going to happen with the suspended projects. Mr. Schunicht can provide us with some alternative designs. Boyer said usually when he gets these things that are going to cost \$9,750 is says where the money is going to come from. Schaaf said from the savings from eliminating a position from the City. Boyer said we haven't saved a penny yet. Moegerle said she respectfully disagrees. Voss said normally this is from a Council request. He said we had a work meeting and we didn't talk about doing this. Voss said we were supposed to have Bolton and Menk coming in for a work session on Wednesday to talk about this. Moegerle said the work session was cancelled. Voss said he wasn't told the work session was cancelled. Moegerle said we talked about this at the Council meeting. Voss said we talked about this at the Council meeting, when. Boyer said he would like to see the minutes where we talked about this.

Lawrence said let's get back to Landform project. He said this is a different style, project.

Voss said we didn't talk about doing this at the work session; we talked about doing something different. DeRoche said this gentleman is here to lay out what he does, and you keep saying everything is so time sensitive, so let's get the information we need. Boyer said this is about transparency; we need to let contracts out for this. Schaaf asked would you like the presentation. Voss said so the meeting is cancelled for this Wednesday, he assumes you told Bolton and Menk because you haven't told Council. He said he got an e-mail about a different meeting, a luncheon. Moegerle said you were told at Council meeting. Lawrence said that is enough. Boyer said if we are proposing to spend \$10,000 then we should send this out to bid. Lawrence said he is here for informational purposes. Boyer said if you are going to turn around and put out an RFP for this and you have given him an open competition for the contract, I would want the same rights as he has had for the contract. Voss asked when are you going to listen to Bolton and Menk's information. Schaaf said the Council has taken action to suspend \$20,000,000 in contracts, he thinks the Council has indicated by the majority of the Council that they need information in an open meeting on how to get information. He said the election is over, let's move on.

Bob Schunicht said he is the Vice President of Landform and he is aware that East Bethel is facing a major decision on a waste water system that is ready to be implemented. He said it has to work technically and financially. Schunicht said it has been based largely on projections which are most largely almost wrong. He said you have to work some flexibility in those projections. Schunicht said you will have 50-80 years on the life of a system. He said when you are ramping up a system you are still trying to get a momentum on paying for it. Schunicht said what we laid out for you is a four part study on risk assessment. He said the first is evaluate design and funding projections, second is review current projections, third is investigate competing developments and cities and the fourth is prepare your risk assessments. Schunicht said we will do a series of spreadsheets and look at where the money is coming from. He said he has done this several times in his career. Schunicht said it is based on the risk you want to take. Then he will present it to you and say this is what we think. Moegerle said she understands that the Met Council is paying for the sewer; we are talking about the city's part correct. Schunicht said that is correct, the Met Council has the funding of that figured out; we are talking about your project. Moegerle asked who you will be contacting at Met Council. Schunicht said he will start with some meetings with the City, then meetings with Bryce Pickart, then others, they are good to work with and willing to discuss change and maintaining a good dialogue.

Schaaf asked are you familiar with the project in Ramsey. Schunicht said Ramsey hired his partner to manage their project after it failed, to bring it back. Schaaf said so you have information on neighboring communities. Schunicht said yes. Moegerle said so you evaluated that failed system and then you were hired. Schunicht said in Ramsey there were people that went bankrupt and were jailed, etc. He said so it really had to be reworked. Boyer said wasn't there a large amount of bank fraud in that project. Schunicht said he is not sure that is before he was involved in the project. Lawrence said we talked about ERUs. He asked can your systems handle 100 ERUs. Schunicht said the Mayor is talking about our systems that we do, yes they can. Schaaf said but that is not part of the study. Schunicht said true, what should come out of the study is what should be done about the suspension. Voss said he doesn't disagree that there could be value to this, but there seems to be reluctance to not only hear about how the original numbers were put together, but how they were. Moegerle said we have asked about that not only post election, we have begged for those numbers. She said the information that was given was if you do that, and if they come, then you can do that. Moegerle asked where are the numbers, based upon this and that, where are the economics, demographics. Voss said that is what this Wednesday was

supposed to be for, bring in Bolton and Menk. He said he tried to set this up in December. Moegerle said she wasn't contacted. Voss said we specifically set it up at the last work meeting. Schaaf said there was no Council action. He said he contacted Bolton and Menk and they gave him no information. Voss asked Schaaf is he still a spokesperson for Bolton and Menk. Schunicht said the numbers he has seen are the projections for the ERUs. Voss asked are you adverse to having Bolton and Menk before this Council so you can ask those questions directly. He said all he is trying to do is get the person in front of you that has the answers.

Moegerle said Bolton and Menk is going to come to a meeting is that is going to be available on DVD, on tape. She said a work meeting wouldn't be televised. Boyer said it might cost us \$20. Lawrence said we always wanted to meet with Bolton and Menk. He said we are well aware of the time issue we are working with; we are trying to get the most information we can. Voss said there is reluctance to do this.

Voss said you are the one making the decision now. He said if you don't want the information that you need as an elected official to make the decision, all he has done is try to get the information to you. Voss asked then why did we set up the work meeting. Schaaf said it is important for people to understand that the Mayor and I met with the former city administrator and we have no information on this. Voss said this is your opinion on this. He asked what is the timing on this if we retained Landform or someone else. Schunicht said he would have a report to you by February 23rd. Schaaf said it might be helpful to have Bolton and Menk and Landform at the same meeting. Boyer said are we talking about spending money again. Schaaf said possibly. Lawrence thanked Schunicht for his time.

Closed
Session –
ACHRA

Moegerle made a motion to adjourn to closed session regarding the Anoka County HRA Lawsuit. DeRoche seconded; all in favor, motion carries. Vierling explained that the Council can adjourn to closed session pursuant to Attorney/Client privilege with Mr. George Hoff the City's Attorney in this case number A-101628 to discuss the pending litigation regarding the Anoka County HRA. Boyer asked if Teetzel would be included in the closed meeting as she is a party in the lawsuit. Mr. George Hoff, the attorney representing the City in the lawsuit, after being informed who Ms. Teetzel was, agreed that it was appropriate for her to attend the closed meeting.

When Council returned from the closed session, Vierling explained that Council met in a closed session that was attended by all Council Members, himself, Mr. George Hoff, counsel for the City, Jill Teetzel, co-defendant, and Dave Schaaf, acting City Administrator. Strategy was discussed.

Landform
Proposal

Moegerle asked is it necessary to send out RFPs if we wanted to enter into a relationship with Landform. Vierling said no, he said it is at will to engage into services unlike the process when it is over \$100,000. He said many cities do use RFPs, many do not.

Moegerle made a motion to accept the proposal by Landform for a Third Party Review/Risk Assessment, under avance as set forth under the letter dated January 19, 2011. DeRoche seconded. Boyer said so now we are certainly spending money, \$10,000. He said in the past the City has always for RFPs for things like this in sums of nature. Boyer said so you are doing this to give to some friend. He asked why this wasn't competitively bid. Moegerle said but when we discuss the letter from Met Council you are going to say there are circumstances to speed everything up. Boyer said we need to go out and get RFPs and get cost effective prices. Moegerle asked what are your facts to support that. Boyer asked you don't have facts to support that, but he was told at the beginning of the meeting

that we weren't going to spend any money. He said this should go out for RFPs so you can't get the most qualified proposals and most effective person.

Schaaf said the motion is to authorize expenditures up to \$9,750, is there something in the background you think is inadequate. Boyer said he thinks there are other qualified consultants around twin cities that might be cheaper and might not be cheaper. Schaaf said and you are not concerned about how long that might take. Moegerle asked to call the question. Voss asked what is the timing on this. Schunicht said 3-4 weeks. Voss asked is there a way to speed that up. Schunicht said he can try to speed it up. Voss said the use of abeyance of the project is a good term, if Council so chooses to go forward with this, they should never be afraid of the truth, this should be a sign that it would be for the Council to stop pushing off the meeting with Bolton and Menk and gives more than enough time to get the information from the people that have the information. Moegerle asked are you saving we should meet with them at the same time as Schunicht gives us his information, the first meeting in February, at work meeting, the second meeting in February. Voss said for right now, he assumes the work meeting on Wednesday is still on until he hears further. Moegerle said she is asking for your preference when you want the meeting. Schaaf said he has spoken with Kreg Schmidt from Bolton and Menk and he would be available February 2nd. He said he would like advance notice. **Boyer and Voss, nay; DeRoche, Lawrence and Moegerle, aye; motion carries.**

Moegerle made a motion to direct staff to work with Bolton and Menk to have them at the February 2, 2011 City Council meeting. Boyer seconded; all in favor, motion carries. Council consensus was to have this first on the agenda.

Met Council
Letter

Voss said we received a letter from Met Council. He asked Schaaf is he talked to Met Council about this letter. Schaaf said the point where he talked to Bryce Pickart he was going to into a sub-committee and he said he explained to Pickart what the Council did and Pickart indicated there was no deadline in the contract. Voss said we received a letter directed to all of us that says Met Council understands the direction Council took on January 5, 2011 and that they have expended approximately \$2,000,000 and that they expect the Council to proceed with the water/sewer project as planned. Moegerle asked Schaaf if he has exchanged any additional correspondence with the Met Council. Schaaf said no, he has not. Voss said he heard about Schaaf's discussion. He said and the Met Council made it clear at the Town Hall meeting that they would want their investment back.

Voss asked how much of the bond proceeds have we expended. Schaaf said roughly \$2,000,000. Voss said and we have four contracts out, all who have started work and we have received three letters from them. He said they have expressed concern and they have stated their concerns and delay costs. Moegerle asked are there any weekly costs that are being assessed by Met Council. Schaaf said no. He said they are perfectly okay with us looking at what we are going to do. Schaaf said they haven't let any contracts. Lawrence said the delay costs they are talking about are the materials. Moegerle said the delay costs are not on the agenda. She said she is objecting to the discussion of this if it is not on the agenda. DeRoche said isn't it a fact if these contracts were not shoved through in a lame duck session we would not be in this situation. Voss said we are not getting any communication from our Acting City Administrator; we are having to get communication from these contractors. Schaaf said he wanted to discuss City Administrator/Council Communications and because you removed it he hasn't been able to discuss things with you. He said he has discussed this with all four contractors. Schaaf said we need to get to a decision, we understand the ramifications. Voss said he agrees with that. He said he think it

is important that the Council and the public have all the information. Voss said in that time frame if you can provide what the cost liability is if the project is stopped, here it is outlined that we have \$5,000,000 daily cost delays, \$18,000,000 in bond, we have already spent \$2,000,000 if the project doesn't go and we have no way of paying that back, we have to talk to Springsted about that. He said if the Council does decide to stop this, how are we going to keep the City out of bankruptcy. Moegerle said her understanding is the HRA paid for some of this. Voss said we have investment in this already and we're sure as heck better consider that. Schaaf said this is a very serious consequence that this Council has to face.

Commission/
Committee
Liaisons

Council decided to move the Commission/Committee Liaisons up on the agenda. Lawrence asked Council Members to serve on the commissions/committees. Voss said his suggestion is for the three new Council Members to be on the Park, Road and Planning Commission. He said he would suggest someone different is assigned to the Planning Commission because Moegerle has already served.

Boyer made a motion to approve the Commission/Committee Liaisons as follows: Acting Mayor - Council Member Moegerle (previously assigned by Resolution), Road Commission – Council Member DeRoche, Park Commission – Mayor Lawrence, Planning Commission – Council Member Moegerle, Watershed Mgmt. Organizations – Council Member Voss, Cedar Creek Committee and Sandhill Crane Committee – Council Member Boyer, Fire Department – Council Member DeRoche, Police Liaison – Council Member Voss, Booster Day Committee – Mayor Lawrence and Council Member Voss and Finance Committee – Council Member Boyer and Council Member DeRoche. Voss seconded; all in favor, motion carries. Voss asked staff to complete the attachment and send to all Council Members.

Acting City
Administrator
Compensation

Schaaf said he has handouts on this item. He said the first handout is information from the League of Minnesota Cities (LMC) on other cities about the same size as East Bethel and what they pay their City Administrators, outstate and metro area. Schaaf said then the next sheet is something he sent to Council the 2010 Administrator expenses and the proposed 2011 Administrator expenses for the former Administrator. He said that is what the taxpayers paid to have that person work for City. Schaaf said next is what he is proposing \$79,900 salary and \$7,911 in benefits, FICA/Medicare, workers compensation insurance and a laptop computer for a total of \$87,811.35 with no contribution for cafeteria health benefits, no cell phones, no ICMA membership, etc.

Boyer asked why are we not putting out an RFP for this position as we did for the City Attorney. Voss asked Doug Sell is still the City Administrator; he is on paid administrative leave, right. Vierling said that is correct. Voss from what he understands the LMC has a list of Interim City Administrators that we could work from. He said we have an Acting City Administrator now. Voss said at this point, we don't know what is going to happen with City Administrator Doug Sell, so for now we cannot just go out and advertise for this position; we can decide that after we make the decision about Doug Sell. He said but right now we need someone to run the ship. Voss said but this is just an Acting City Administrator. DeRoche said maybe we should meet in closed session and deal with Doug Sell first.

Voss said what we are dealing with here is what is just compensation for the role you have been playing here. He said so the proposed salary is just shy of \$80,000. Voss asked how did you come up with that number. Schaaf said he had discussions with the incoming Council Members prior to January 5th. He said he is putting his foot in the quicksand.

Schaaf said he indicated he would be willing to serve for a year at less than ½ the current salary of the City Administrator. Voss said and you are comfortable with this. Schaaf said yes, based on the list of cities compared to our size. Voss said so let's focus on the City Administrator in Alexandria. Schaaf said he isn't familiar with the City Administrator there, but he is familiar with Mike Robertson who is now in Otsego. Voss asked how long has he been a City Administrator. Schaaf said 12-14 years. Voss asked is there anyone else on list you are familiar with. Schaaf said Jerry Urban from Vadnais heights. Voss said and he has 40 years of experience. Schaaf said the taxpayers paid \$181,000 for the previous administrator.

DeRoche said when Sell was hired what kind of process was gone through. Boyer said we interviewed five candidates. He said we had a professional search firm involved. Boyer said we advertised in paper of record, and he is pretty sure it was in the Star Tribune and Pioneer Press. Schaaf said we did some investigation and we are pretty sure that you had three people set up for interviews and one backed out, then another backed out because she didn't want to work nights or something and you only interviewed Mr. Sell. Voss said he wasn't on the Council then but he remembers something like this also. Moegerle asked how many years of experience did Sell have as a City Administrator. Boyer said he came to us from Jordan. Moegerle said no, he came from Brooklyn Center. DeRoche asked what pay rate did he start at. Voss asked why are you asking this. He said he is looking at proposed salary of \$79,900 with no experience in City government, except as a government official. Boyer asked do you have a master's degree in public administration. Voss said the pay is set with experience. He said this is not an unfair statement to make. Lawrence said we brought Mr. Schaaf in because of the issues at hand. Moegerle said and economic development in East Bethel and he has experience in that. Boyer asked do you have a master's degree in economic development. Schaaf said he had a business, Schaaf Floral, a small business, and a larger business in Stillwater, a Laundromat, worked on a large development in Oak Park Heights as a Council Member and a Mayor. He said he got elected as a trustee in sewer development. Schaaf said he is familiar with connection charges. He said as a legislator he dealt with metropolitan and urban affairs, he worked deeply on election issues, served on task force that reworked election laws, served as an appointee of Governor Anderson, he has dealt in the legislator on transportation, crime and crime prevention, in every aspect of the City, he has dealt with each issue.

Boyer asked have you ever held a job as a municipal employee. Schaaf said if you count an election judge as one, that would be my only job. Voss said he is looking at this with his experience, there are plenty of folks with his experience that could do what you have said you want to do for Council and the City and this is a leadership position that requires the skills of a large staff, dealing with five diverse opinions of a large Council and doesn't see your skills that are half of what our previous City administrators were. Schaaf said he had discussions with Council that he would do this for half because he doesn't have a typical resume, he would need to bring in consultants to help. Moegerle asked how many years experience do you have in economic development. Schaaf said three years in the North Suburban Sanitary Sewer District, eight years on Oak Park Heights City Council as a Mayor and Councilman and eight years on senate. He said he also had eight years as real estate broker. Voss said rather than basing your comparison on half of what the City spent on the City Administrator in the past and certainly listening to what the City has heard criticism about, what else should we consider. Schaaf said he felt he was worth this. Boyer said he would ask why we are not advertising for this position. Lawrence said this is just an interim position. Boyer said he doesn't believe this proposal is just for the next 20 minutes. Schaaf said presumably if this proposal is adopted it will include a 30 day clause that would allow

either parties to terminate with a 30 day notice. Boyer asked how long is this position for. Moegerle said this is until the City Administrator's employment issues are taken care of. Schaaf said no, he is proposing this for one year with a 30 termination clause.

Voss made a motion to approve the compensation package for Acting City Administrator Mr. David Schaaf at \$49,000 yearly salary. Boyer seconded. Moegerle said she disagrees with this, what this man has done already has been an amazing service to the City. She said this is disingenuous as a motion and as what he brings to the City primarily as what he brings to the City; he has a proven track record to the City, and what he brought to Oak Park Heights. Voss said there is no way he would get more than this in the open procurement process. Moegerle asked is this a requirement. Schaaf said he has already incurred some cost for moving expenses and he is not charging for that. He said at this proposed salary he has no interest in the position. Boyer said he has a master's degree and he knows. He said you would not be offered an entry level job, let alone \$40,000 to \$50,000. Boyer said at least not at a City with a population of 13,000 in the metro area. Moegerle said if your motion passes obviously we are going to see those documents, because we are going to need to see those documents in a hurry. Boyer said he can point you at the site if you like. Voss said the survey that Schaaf referred to will have that information. Vierling said the LMC does a regional approach. Voss said he may be way out of base with the \$49,000, but he is taking half like Mr. Schaaf did. He said we all have life experience. Voss said he is sure there are a few thousand out there that will take job. Lawrence said he would be on a 30 day notice. Moegerle said the issue before the Council is how long we expect this to be. Voss said this is three steps. He said first we have to get Schaaf paid. Voss said then once there is resolution with the existing City Administrator and we know that we no longer have a City Administrator then we have to fill the position with an Interim City Administer, then we get a regular City Administrator. He said he suggests that just like the City Attorney, if folks are as good as they think they are, they shouldn't be afraid to compete in the competitive market. Moegerle said Schaaf shouldn't be afraid to, he is a valuable service to the City, he has contacted major players, we have a huge financial interest at stake, and we can't hire someone at \$49,000 a year and asked them to handle \$2,000,000 a year contracts. Boyer said this is based on his opinion. Voss said with the other items on there, it may only be for a couple weeks. He said he is here for one reason, he talked to an incoming Council Member prior to January 5th and if they don't want him to do this he is out of here. Voss he said he indicated that he had led two search committees for City Administrators previously; he should know how it works. **Boyer and Voss, aye; DeRoche, Lawrence and Moegerle, nay; motion fails.**

Lawrence made a motion approve the compensation package for Acting City Administrator Mr. David Schaaf at \$79,900 and \$7,911 in benefits, FICA/Medicare, workers compensation insurance and a laptop computer for a total of \$87,811.35 with no contribution for cafeteria health benefits, no cell phones, no ICMA membership, etc. for a maximum one year, with 30 day termination clause for both parties. Voss said he wants it at will so we fill this gap, it may only be a week. Voss said in terms of an acting position, he doesn't have any problem with any of us being the Acting City Administrator. Vierling said the Council couldn't do that. **DeRoche seconded. Voss and Boyer; nay, DeRoche, Lawrence and Moegerle, aye; motion carries.**

Schaaf handed out information on outsourcing planning. He said this is just for informational purposes. Boyer said he feels somewhat snakbit, is it the Council's anticipation that we will take action on this also.

Anoka County
Broadband
Project

Moegerle said she met with Jack Davis to discuss the status of the broadband trunk lines. She said we were both surprised that the broadband had gone to the Arena and then to City Hall. She said we also had discussions about the City water project. Moegerle said she attended a CLIA meeting on Thursday as well and they are looking at how to protect Coon Lake and the Tierney project and the 13 other points.

Joint Law
Enforcement
Council

Voss said he has a couple things. He said last December, he was asked by Sheriff Stuart to serve on the Joint Law Enforcement Council, which he accepted. Voss said he thinks the first meeting is Wednesday. He said they have been around a long time, he knows the former mayor was on this Council for a long time.

Sheriff's
Reports

Voss said so Lieutenant Orlando is no longer going to be giving in person reports. Schaaf said he found them embarrassing, of no value. Voss asked was there something specific in the report. Schaaf said it was the methodology of how the report was given, going through how the arrest was made, etc. Voss said we specifically asked the Sheriff to be here and to have one and one time with the Council and give these reports. Schaaf asked why you would do that. Moegerle said the statistics are still going to be presented. She said the presentation of assorted details is not reasonable. Voss said while he agrees they are not pleasant to listen to, they are eye-opening and back 4 or 5 years ago, our sheriff's reports had to be 50% meth related. He said this was very disturbing, it was a regional problem and we talked about what we had to do and when the law changed and you couldn't purchase the stuff needed to make meth so readily, those reports changed. Moegerle said you can still get those reports; just those details will be gone. Schaaf said he doesn't do those types of these things on whims. He said he checked with other cities. Voss said it is about exposure and ability to interact. He said and you don't do things we haven't asked you to do. Voss said you could tell Lieutenant Orlando was embarrassed by that. Schaaf said he didn't expect her here at the meeting. He said the reason Council needs information is to act on policy. Boyer asked you will use your judgment to control the information he gets. Schaaf said you will get those reports in writing. Voss said Council did not dismiss the sheriff from being at these meetings. He asked how does the Council feel about the sheriff being represented at the meeting. Moegerle said she thinks it is great that she comes. She said she doesn't think we need a blow by blow of this information at the meeting. Moegerle said she thinks you embarrassed her. Voss said he didn't say anything to her. Boyer said he did. Moegerle said she apologizes. She said she would like her to still come to the meeting, but not do the blow by blow.

Voss said he would like to see him raise this concern, rather than all of a sudden making changes without any discussion. Moegerle said yes, handle it in a diplomatic way, duties in an administrative way. Voss said he asked to have this on the agenda and Schaaf said no, he would not put this on the agenda. Moegerle said we need to have a discussion about how things get put on the agenda.

Mayor Update

Lawrence said he has been working with a lot of people in the City. He said he is meeting with Sheriff Stuart for lunch.

Information

Boyer said he is wondering when Voss and himself are going to be provided the same things the rest of the Council is provided.

Fire
Department
Meeting

DeRoche said he went to the fire department meeting on Monday night and they have a heck of a fire department. He said they are very professional and seem to really respect Chief DuCharme. DeRoche said the department has some equipment needs and the needs are

going to need to be met.

Closed
Session –
Former City
Administrator
Agreement

DeRoche made a motion to move to close session to discuss the agreement with the former City Administrator pursuant to Minnesota Statutes, Section 13D.05, subd. 3. Moegerle seconded; all in favor, motion carries. Vierling said he wants the record to reflect we have written consent from Mr. Douglas Sell to go into closed session on this matter.

Vierling said we are back in session, after having concluded our closed session where we reviewed the former City Administrator agreement. All Council Members were present, along with me, and Mr. Schaaf. He said the closed session concluded at 10:33 p.m.

Adjourn

Boyer made a motion to adjourn at 10:33 PM. Moegerle seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk