

EAST BETHEL CITY COUNCIL MEETING

October 5, 2011

The East Bethel City Council met on October 5, 2011 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bob DeRoche Richard Lawrence Heidi Moegerle

MEMBERS EXCUSED: Bill Boyer Steve Voss

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

Call to Order **The October 5, 2011 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Moegerle made a motion to adopt the October 5, 2011 City Council Agenda. DeRoche seconded; all in favor, motion carries.**

Presentation – Anoka County Hwy. Department Signalization Project – 221st Avenue NE & Hwy. 65 Jason Orcutt introduced himself; he is the design supervisor for Anoka County. He said he brought along an engineer as well as the assistant engineer, Andrew Witter. Orcutt said what we are here to talk about tonight is the signalization and safety project at 221st Avenue and Highway 65, just to go over some basic components of the project and then he will open it up for questions. He said the first thing he would like to stress is we really minimized the design on this project to try to make the least amount of impact to the most amount of people. Orcutt said with our design we will have a left turn lane, a through lane and a right turn lane, both on the east and west side of County Road 74 or 221st Avenue. He said the as well as a new signal system will be installed and facilities for a pedestrian crossing. Orcutt said when we were looking at the design we go through a pretty extensive process of deciding where the road should be and in relation to the existing ROW (right-of-way) that we have and the impact to the surrounding properties as well and to make the best financial and least amount of impact to the most amount of people.

Orcutt said where we are right now, we looked at three options. He said a north shift, a shift to the south or a center along the existing ROW. The north option appears to be floating to the top. Orcutt said there is impact to many of the property owners, some more than others, but overall it seems to be a good fit for the design. He said when looking at the design, a few things to note, there are a few small pieces of median but these will not block off anyone's access. Orcutt said other notes of concern were during construction would property owners have access to their homes, will fire and safety vehicles be able to get to my place. He said and the answer is yes, you will always have 24 hour access in and out of your homes. Everyone has a different situation and we will make sure that is accessible 24 hours a day. Orcutt said there is one small drainage pond that is required from a regulatory standard point, right now it is in the northeast end of the project, and we have made it as small as we can to stay within the requirements to allow overflow into the wetland that is on the south side of 74. He said the estimated cost we are at right now is right around \$1,000,000 for the construction, signal and road costs. Orcutt said that is the overview.

Orcutt said MnDOT will be doing what is called a white top project on Trunk Hwy. 65 and

that is going to be putting a 9" layer of concrete on both lanes so they will be shifting people over and paving each side at a time, so there will be some disruption with this project. He said this project was scheduled for 2014, but with different requests it has been brought to our request to bring this project forward sooner. We are looking at delivering this project in 2012, with the city's approval and going through the process. He said we do have a public meeting, open house format, scheduled for Monday, October 10th, we sent out postcards within a half mile and we would encourage anyone that knows anyone that is interested to come, and hear more, we would like to see you there.

Davis said there are some people that will probably speak during the open forum on Mr. Kable's behalf, but can you explain what the stakes in his yard are, he thinks there might be some misconceptions over what they represent and describe the extent of the widening of the road on his property. Orcutt said what it comes down to on who we stake the road, is there are three types of ROW we purchase. Temporary easement which is like renting the property used during construction, used to slope in, and when we are done we put it back to the way it was before construction. Permanent easement for purpose which the county would acquire, whether it is for drainage, roadway, sloping or trail. Orcutt said and there is permanent ROW. He said on Mr. Kable's property we are looking at an area of permanent easement, so when you look at his property right now the first stake out there is permanent easement, second stake is temporary easement, that goes back to the property owner at the end of construction, it will just be put back to the condition it was in before construction, sloped back in and planted with grass, back to its condition when we came. He said our designers worked hard to keep that down.

Nick Dobda, designer of project said the permanent easement is set at the edge of the clear zone and if he did the math right, and that is the minimum we need to acquire to maintain as a clear zone for safety purposes. He said the standard set that at 30 feet from the edge of travel lane, so about 42 feet from centerline. And from the edge of the proposed turn lane about 17 feet. Davis asked them to comment on how much the actual road will be widened and paved in front of Mr. Kable's property and if there will be any widening on the south side of his property. Orcutt said there will be widening on the north, on the south we will be paving the shoulder. He said there was various reasons we looked at that to the south, one of course if the old Lambert site there, as well as when you cross on the west side there is a large wooded slope on the south side and when you widen on that side you start chasing that slope you have significant impact and lots of tree loss that way too. Orcutt said so if you were to shift that to the south have you would have financial impact, environmental impacts, wetlands on that side, there are many other issues that weigh into this effect, some that which we are looking at this as the best investment of the taxpayers dollars who is responsible for the cost of the project as well.

Lawrence said Mr. Kable's property is probably the most heavily impacted on this plan, and we talked about his fencing he has currently, you are just going to move back for him. Orcutt said what we would do is we would give him options, if that fence would work during construction, we could move it back at our expense. He said a lot of times the contractors will just put different fence in, rather than trying to salvage a fence. Orcutt said but we have discussed this right from the beginning, at no time will there be a time that he will not be fenced in, that is a concern of Mr. Kable's and we take this very seriously. He said we have done this for numerous property owners, we move the fences back prior to the construction and then when construction is finished we move the fence back where it was. Orcutt said so during construction his fence might be in further, but there will always be a fence there and then it will come back to the final spot after construction is complete.

Lawrence said we had discussed the pond issue, there is already a little creek there, and you had mentioned that this is not possible because MN Statute requires, this is more like holding water, allowing the sediments, salts and oils from cars to settle down and then the water would runoff to the pond to the south, is that correct? Orcutt said that is correct. He said what is required now on a project this size, is you have to size your pond to accommodate your improvement. Orcutt said so, once you touch the road you have to bring it up to current standard. He said that is a natural low spot there. Orcutt said there probably won't be water in that pond very often. He said when a rain even happens, it will get to a certain level and if it gets to high it will overflow and go out to the wetland. Orcutt said you are exactly correct, it is frowned upon to put ponds inside wetlands, that is a decision the county can't make, we would be overridden on that option. He said they happen from time to time, when there is no other option. Orcutt said but in this case, they would say you can't put it in the wetland. He said it is something we have dealt with, a continuing issue of water quality that is outside of the control of cities and counties.

DeRoche asked what is going to prevent this water? Say we get rains like we did this spring, what is going to prevent that from overflowing and going down on his fields. Orcutt said when we design this; we model it for 100 year storms and large events like you said. He said when the water comes in, we have a basin and the pipe is below and there is an emergency overflow pipe that is at an elevation set below his field and that will go out across the road to a wetland then. Orcutt said then water can come in, sediment can come down and overflow can go to the wetlands on the other side. DeRoche asked what is the difference that it is okay for the water to run there in an emergency situation? Why isn't it okay to just run now. Orcutt said that is a good question. He said you design a pond so that many times the overflow doesn't get used. It has high infiltration rates, and there most likely won't be water in that pond other than in the early spring. Orcutt said you are bringing the water in and there is enough volume that the sediment falls down.

Moegerle asked Orcutt to explain what options they looked at for this intersection. Orcutt said originally when the funding was applied for (competitive bidding application) they look at what types of modifications can be made, what proven crash data, fatalities, those types of things. He said there was some research money about a sign to have sensors on either end to allow driver to pull up and it would tell you if there is a gap. Orcutt said so right now you are watching for your own gap and there are lots of things going on at that intersection and those are going to be tried in certain areas. This intersection, being that it is on a crest of a hill, you are coming from many signalized intersections. It is quite different from what you have just come through and quite difficult to cross. He said this is a complicated intersection when there is a lot of traffic, and traffic is so one directional that it is hard to find those gaps. Orcutt said those are not proven technologies, this is proven technology and this will reduce crashes.

DeRoche asked nothing is going to be done for the rise heading southbound, correct? Orcutt said by shifting the road to the north a little bit you are bringing that down hill just a little bit, and that little will help too. He said right now you are centered and if you shift to the north, it will be helped, it is not be being cut down significantly because it meets site distance requirements. Orcutt said when you have that signal pole it will be up nice and high and you will be able to see it nice and clearly. DeRoche said he has to think studies have been done, signalization of an intersection isn't foolproof correct? He asked because now you are going to be adding the factor that people are going to be trying to run the stoplight. DeRoche said and with that rise being where it is at, you are still not going to be

able to see other than at night. So what is going to change on Highway 65, is there going to be an acceleration lane? Orcutt said there will not be an acceleration lanes with this project, because there will be a stopped point to turn. He said so if I was going eastbound, would come up to stoplight in turn lane, southbound traffic would stop and I could turn. Orcutt said there would be rights on red as well.

DeRoche said he plays the devil's advocate because if you are stopped and you are going to make a left and you are legally able to do that. Someone that is new to that intersection or is used to just going through there, they come flying down the highway, what are they going to do. Orcutt said when we turn lights on (on county roads) we bring the sheriff's out before someone walks away. He said there is always that risk that you are going to have those. He said the benefit of the signal is it reduces the severity of the crashes. Orcutt said you have a car turning right and a car turning left at 20 mph, instead of a car coming through at 40 or 50 mph from a side street and then it is catastrophic. He said there is no foolproof answer; everything has its pluses and minuses. Orcutt said in this case this scored very high on the benefit cost ratio because the type of crashes we are seeing here are right angle crashes, not the side swipes or rear ends. He said it is very clear that it is right angle crashes and it is due to drivers pulling out and somebody hitting them, so it is driver error. Orcutt said with signals you try to do them very consistent, very consistent way of designing them so they look the same; everything acts the same, try to make all those match from intersection to intersection.

DeRoche asked what, if any, adverse effects do you think this will have on Mr. Kable's property? Orcutt said he understands with every property, that is their castle; he understands that and takes it very seriously. He said with this instance, being his home is set further back, while it doesn't take away the impact, it is less than if his house was 30 feet from the road. Orcutt said he thinks here a lot of the road is going to be what is ditched and put back. He thinks when the project is done you will think it was a good project. Orcutt said the impact sometimes seems larger, until it is built and then when you see it, it makes sense. He said we work very hard. We do a lot of design work and we have had a lot of projects when we are done that people are very happy with them. Orcutt said to answer the question about his impact, he thinks he is going to have permanent easement that will be required for clear zone, that we will have easement over, as well as drainage and sloping.

Moegerle asked on projects like this, with as similar circumstances as you can come up with, how have the traffic incidents statistics changed? From the concerns about the recent fatality in February/March, how are we going to decrease fatalities at this intersection as a goal? Her question is what can we expect to have substituted, low impact property damage/collisions? Moegerle said the reason she asks that is it creates a demand on our first responders, sheriff and fire department that responds to those. So this is a burden that will be borne by all the taxpayers who are not here tonight. She said so, if you can explain what statistics will change for that intersection, she would greatly appreciate it. Orcutt said when you do an application like this there is a value put on crash costs, cost to society and the issues there. He said when you put a signal in like this you will see an increase in some low speed rear-ending; you may have side-swipes, those types of lesser impact crashes. Orcutt said if you make the wrong decision and you pull out here and get hit, that is a big crash. He said with a signal system, you are going to have more of a gap. Orcutt said obviously we have all seen people run through signals. If the arrow is green and it turns to red, two more cars sneak through, so we work with MnDOT. He said they will run this signal and design the signal such that it gives a lot of green time down Highway 65 and talks to the other signals down the line. Orcutt said overall you will see a potential increase in rear-end type

crashes, inattentive driving, because you are coming to a stop.

Moegerle said but overall, you have no statistics of what we can expect. Are we going to triple the number of collisions there? Because we need to prepare for that because we have police and fire persons that need to respond. Orcutt said he doesn't have that information with him. He doesn't want this to seem like he is giving you the runaround. He said we do have a traffic department that can get you this. Orcutt said you don't see signals pulled out, very, very rarely. He said the crashes you are mentioning, the benefits outweigh the smaller crashes. Moegerle said she would definitely like to receive this information.

Moegerle said one resident contacted me and complained about sitting at the westbound on 221st waiting to cross and said he waited at least three minutes. She said last week she had the misfortune of being southbound on Highway 65 down in Blaine and I can promise you I sat for at least three minutes trying to turn left off of that. Moegerle said so for the people that are saying at least it will get me out on Highway 65 faster, will it? She said she thinks this is a real concern. Moegerle said and in the short term it seems "Oh, I will get out on Highway 65 faster." She said but you have just said that we are going to give more time to 65 for cross traffic and you explained to me earlier that the signals would talk to each other. Moegerle asked so what is the end result of that application? What can our residents expect about how long they will sit at that light compared to how long they sit there at the stop sign. Orcutt said if you go there at night time, and no one is around, it will trip quickly. He said but if you go there during the day, it might take three minutes, but you will be crossing safely. Orcutt said you will have a green arrow, or green ball to cross the road safely. Moegerle said provided someone doesn't run the light.

DeRoche said he got stuck at Sims Road going eastbound, apparently that light does not recognize motorcycles. He spent about ten minutes, got frustrated, turned around and went up to Polk Street, which is ½ mile west and light still hadn't changed. He asked what happens if that goes on here? DeRoche asked how do these trip? Is it a sensory, is it in the ground. Orcutt said it is in the ground, there are systems that will pick up visually also. He said but generally they are called a loop detector, magnetic field. Orcutt said a lot of the old ones have only one and if you get in the lane and get in front of the detector it won't set the light off. He said but a lot of the new ones have two, one in the front and one in the back. Orcutt said they also pick up the magnetic field; they are a more advanced system. DeRoche said he couldn't even go straight across the highway. Orcutt said he can look into this and if there is an issue, we can look into it. He said MnDOT is responsive, there was an issue at Bunker Lake and 65 and they fixed it. Orcutt said they will come out and look at things and will re-time them.

Lawrence asked in the winter time there is quite a grade coming up that the hill and if we are going to be stopping all those cars at this light, will we have problems with acceleration with that grade after coming to a stop at that light. Orcutt said no, those meets the grades for a cold climate which we are, so if you get above 6% or 7% and you worry about slipping and taking off. He said it also meets the standard for the slope. Orcutt said we have had this on other projects as well, is this going to work now, will this meet the slope. He said while this seems large, he points you to like Duluth, those are much steeper. Lawrence said he just wants to make sure we aren't going to get stuck there. Orcutt said these are all very good questions, he appreciates them.

DeRoche said naturally in the winter, you plow and put salt and chemicals down. He said he doesn't know if this has been a factor with this gentlemen's property, but is this going to

become a problem? DeRoche said you have made the road bigger, going to be using more chemicals, going to be dumping more stuff off to the side, and is it going to do anything to his fields? Orcutt said we don't have those issues on other four lane roads where we have done this, there is some salt burn out on grass. In the spring you might see some brown spots but you can only put so much of the salts and chlorides out. He doesn't see this as being a major concern. Orcutt said this is just a two lane road like normal until we get to the turn lane, 300 feet for turn lane. DeRoche said the reason he asks, he doesn't live there, but we sit up here representing the people and he knows he wouldn't want his property having something happening to it.

Andrew Witter, assistant engineer for Anoka County said with our clear road policy we do use an awful lot of salt. I think everybody knows that is one of the benefits of living in Anoka County. He said but with this project all drainage off this roadway is going to be directionalized to that new pond. Witter said there will be a ditch on the north side with a back berm so all the water from the roadway will be channelized to that pond area, treated in that pond and either infiltrated into the ground or, should a large event larger than a 100 year event occur would then overflow into that wetland in the south. He said the majority of the rains, runoff, everything like that will be treated within that new ponding area. Witter said and that is partially why we need to do it. Lawrence asked is that soil along the drainage ditch all sand? Witter said to the best of our knowledge it is, based on soil borings. Lawrence said so you are going to log infiltration before you even get to the pond. Witter said right.

Witter said if he can respond to the question on safety and what it will do. He said when we put together our funding application there is very specific spreadsheet we have to go through and like Orcutt explained earlier, it is through MnDOT. Witter said there are calculations on the type of crashes that occurred during the study period that we have to use, as well as the type of improvements and how the types of crashes are going to decrease because of the because of the improvement we are making. He said in here, just generalizing, crash reductions left turn lane 40% reduction, angle injury crashes a 55% reduction, property damage right angle crashes 60% reduction. Witter said these range between with some of the smaller crashes from 15% reduction and go all the way up to a 60% reduction in the more severe crashes. Moegerle said she appreciates this. We just went through a long issue with sewer and water and there were lots of projections there that are fairy tales. So, your projections are as good as the people that projected them. She said she is not casting aspersions, but she comes from a point of being very skeptical about your projections. Moegerle said so if you could provide some more meat on the bones of those projects by giving statistics on the actual intersection, that would be more persuasive to her and perhaps to her colleagues up here. Again, it is history; you got to learn from it. She said we are not beating up on you, we have just learned that we have to parse this very, very carefully. DeRoche said we ask everybody a lot of questions.

Moegerle asked and this is being funded by federal dollars specifically for this intersection? Is that your understanding or is that a MnDOT issue. Orcutt said you are correct; this was applied for specifically for this intersection. Witter said yes, this is 90% federal fund, 10% local match. He said there is a cap on those dollars, but right now we are not anticipating to be above that cap. Moegerle said but the 90% is still taxpayer's dollars somewhere along the line. Witter said if it is not coming to our project, it is going to another project in another area, maybe not even in Minnesota. Orcutt said it is taxpayer's dollars. That is why we went through the reiterations to move the road the way we did, because that is the best value.

LaVonne Murphy said she appreciates the opportunity to ask questions tonight. She said she would like to know why this intersection is being widened when there are three other very busy intersection that have a school on them, churches, and a gas station that only have two. Murphy said to her this doesn't make sense; she knows that very occasionally there is baseball that shows up at this intersection, and fire, but also that is on 22. She said so, to her, this seems like it is over kill with the three lanes. Orcutt said the purpose of the three lanes is the operation of the signal. So the signal knows who wants to turn left, who wants to go straight and who wants to turn right. He said that is the best operation for the signal. Orcutt said we can design them differently. But how many times have you been stuck behind someone that wants to turn right? He said what this does is gets drivers in their designated lanes to where they want to go. Murphy said it seems like it is overkill, since there are three other busy intersections that can handle the traffic and we have seen it in the past.

Murphy said she wants to know what the square footage of the pond on Mr. Kable's property is. Orcutt said we may have to get back to you on some of these. Witter said it might be 1000 square feet. Orcutt said we are going to minimize it to make it as small as we can. He said it has not been fully designed yet. Orcutt said he does not see it getting significantly larger. Murphy asked how much land are you planning on permanently acquiring, what square footage is it, half an acre. Orcutt asked on that individual's property. Murphy said yes, on Mr. Kable's property. Orcutt said we have met with everybody at their homes; we have separate sheets that we provide them at their homes. He said that is something he could get to her. Murphy said she is questioning because Mr. Kable farms on his property and she is wondering not only about the loss of his land, which is property, but also potential income. She asked do you compensate them for that? Orcutt said yes we do. He said how the ROW process works is we don't appraise our own property. We hire an independent appraiser, and there is a secondary appraiser that reviews the first appraisal, and we give the individual an offer. If there are crops, trees, etc., all those things are factored into it, by an independent party. We make the offer and if they don't like the offer we will pay for them to get their own appraisal.

Murphy asked so, for the compensation of income, how many years do you go into? Orcutt said he doesn't have the specific number; we have a ROW department that works on this. He said it is so technical, but he can get that information. Orcutt said generally we get this information to the property owner. Murphy said but we are the public, so we should know too. Orcutt said you can know, but these are specifics for one individual. Murphy said but that sets a tone, if everybody knows, then we are on the same page. Orcutt said he is not sure how many years out they do it. Murphy said maybe at the public forum you could get these answers. Orcutt said we will have staff there that will know this information.

Murphy asked how would the run off of the pond affect Mr. Kable's water supply? She said because that is infiltrating soils. Orcutt said his well is significantly back from the road so it won't affect this. Murphy said but it will go into the pond and then down and then spread out. Orcutt said it will go into the pond and then across the road. Murphy said she thought it infiltrated in the pond. You are talking about the runoff part. She is talking about where it goes when it goes down, does it stay there or spread out? Witter said it shouldn't affect his well at all. He said the good news is, with the sand in this area, and the water movement, the sand is an excellent filter. Murphy said she understands that, but if it is moving, it could be moving to his well area.

Murphy asked what will be done to make sure Mr. Kable and his mother are safe and private

as far as exiting his property and entering it. Witter said he will have access just as he does right now. Murphy asked won't there be three lanes there? She asked if he wanted to go southbound would he be pulling out into two or three lanes there? Orcutt asked to show Murphy on the map how this would work. Witter said he would like to address an earlier question Murphy asked, why we need three lanes there. He said on the occasion that a car on 221st gets a green light we want to separate those movements so the person going straight doesn't have to stop, those going right can turn, those going left can turn, and not potentially have to slow down or stop for those making the turns, those cars can keep moving. Murphy said she understands that, but she is looking at the other three and thinking about the money that is being spent, and how this is being funded. She asked if this is a \$1,000,000 project, where is the other 10% coming from? Witter said this is a federal aid project, so it will qualify for state aid funds. Murphy said she thinks this is overkill for that area; we are not like down in Blaine. We are still a little bit rural. Orcutt said that is a good point, that you are still rural, but this needs to last, to allow for growth and development. Murphy said but that is her concern, growth and development seems to have gone down, as far as what she sees.

Dan Murphy asked the land that you are talking about on Dick Kable's property; are you taking the whole strip to the pond? Orcutt said no we are not. Murphy said so you are taking two chunks. He said the piece in front of driveway to the corner and then the more than a 100 x 100 by the time you fence it to put a pond. Orcutt said a good way to look at this is as the road tapers out to get to the intersection, the ROW follows that. We took the absolute minimum we had to. Orcutt said we didn't do the standard, just draw a line. We followed the ROW of the road. Murphy said he understands that. He is just wondering if you are taking the entire strip to include the pond, or a piece in front and then a piece for the pond and then re-fencing all that. Witter said there is a wider strip by the highway and a narrower strip by the pond. Murphy said the other thought you have to think about, is when there are large activities here, soccer games, etc. Dick can't get out of his property if there is three lanes of traffic sitting in front of him. Witter said this might make it easier for him. Murphy said he hopes so. Witter said it will depend on which direction the traffic is going, right turn, etc. Murphy said if you come out of here after a tournament, you can wait for a long, long time up there. Witter said and that is just a single lane now. We will have three lanes up there now. Murphy said he just wants to make sure he can get out with his mom if he needs to. Orcutt said when we talked about the intelligent signal, when it sees a heavy flow of traffic like that, it will give more time, so what now takes 15 minutes to clear out, will only take 6 minutes.

Orcutt said he wants everyone to know, feel free to contact us; we will come out and meet with you. We will answer any questions you have.

Moegerle asked them to announce the date and time and place of the meeting on October 10th. Nick Dobda, Anoka County Highway Department, said we are holding an open house this Monday at West Bethel Methodist Church, west end of this project, starts at 4:30 p.m. and will run to at least 6:30 p.m. and we will hang around and answer questions as long as it takes. Orcutt said it is an open house format.

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

Davis said Mr. Kable (1439 – 221st Avenue NE) wanted to be here tonight, but he couldn't

attend. He sent a letter that he asked Davis to read on his behalf.

To the City of East Bethel Council, Mayor, Manager and Others,

Thank you for letting me express my feelings and concerns with the road project affecting our property which we have lived on and farmed for 64 ½ years.

I have told county personnel, city personnel and others I am not opposed to a stoplight on the corner of 221st and Highway 65.

My concerns are as follows:

1. That I have to give up all the land necessary for construction, both in permanent and temporary easement, while on the south side of 221st Avenue they are giving up nothing.
2. I am willing to give up land with a 50/50 split of land acquisition off the existing centerline of 221st.
3. I am totally opposed to a storm water pond on my property. There has never been standing water in the city ditch. We have never been able to drive in the field in the 64 years since we have farmed it. I challenge anyone to tell me they have seen the field with water in it from a storm event. The only time I have ever seen water is sometimes in the early spring and if the ground freezes prior to a snowfall. I have five areas on our land when the water for these reasons, one being our front yard.
4. I am very concerned about our fencing and keeping people off our property. I want a permanent fence installed before any of the existing fence is taken down. Our yard becomes a turnaround for many cars at night and people drive behind our buildings before we started utilizing a locked gate. We are fenced on all four sides to keep snowmobiles and four-wheelers from ruining our crops.
5. I need 24/7, 365 day access for my 90 year old mother in case of emergency, who I provide 24 hour care for. Most people would have moved her to an assisted living place; I will never do that as long as I can care for her. This is similar as to what Randy Burns our neighbor does for his Mother. I have expressed my concerns to many people. I have two signs in my front yard trying to tell people how we are being treated. I have not talked to one person who disagrees with me.
6. I have no attorney active on my behalf at this time. I hope that you can understand my concerns and helps us through this difficult time. Every inch of this land is precious to us. I trap gophers to maintain our fields and try to keep our farm neat and respectful in appearance. In closing I hope you can appreciate our concerns. I am sorry I could not tell you this in person, for this has taken a major toll on my physical well being, I am unable to sleep and I have lost 10 pounds in the last 2 months, my nerves are shot and I need to be here.

Again I am not opposed to the stop light and road improvement, and as I have stated I can live with a reasonable approach to dealing with problems at this intersection. There have been five fatal and several serious accidents at this corner, all were avoidable if people would just pay attention. I have driven since I was 15 and not had a single accident. I do not drink, do not do drugs or have a cell phone. I am not interested in selling this property for development, this has been my home for going on 65 years and I plan on living here

until my death.

Thank you.

Richard Kable

Lawrence thanked Dick Kable for his letter. He said it was very well done. Lawrence said he talked to Commissioner Andy Westerberg on behalf of Mr. Kable about this issue, about the land taking and he said the only way they could do this, (the way Mr. Kable would prefer the 50/50 split to the south), it would cost an additional \$300,000 in funds. He said this is because of the additional easement taking and fill required. Lawrence said so that is what they are up against. He said but we appreciate Mr. Kable for his letter and his thoughts.

Karen Zenvas said she here representing the group Standing Together for the Horses. She said she was also in attendance two weeks ago. Zenvas said the group has started a petition asking for the Interim Use Permit (IUP) to be revoked for Lowell Friday. She said she knows that since we went in and did our sit-in on August 29th, 19 of his horses have been removed from the property, whether bought or given up. Zenvas said but since that time, we have been informed that he has bought 13-16 new horses. She said on September 29th we were informed at least 10 horses had escaped his fences and the sheriff had to be contacted, and we have pictures.

Zenvas said getting back to the petition, we have a total of 1,274 signatures asking for the IUP to be revoked. She said of those 993 signatures are from Minnesota residents, 667 were in the printed form, 607 were online in electronic format. Zenvas said there seems to be a lot of support in the community to get this IUP revoked. Moegerle asked how many people are from East Bethel, do you know? Zenvas said she didn't count those. She said she was going to do this. It was hard counting all the signatures, but she can do that. Zenvas said the attorney will be getting copies of these petitions. Lawrence said right now we are still waiting. He asked have we heard anything from the county on this? Vierling said the matter is still with the county attorney. He said so the city doesn't have any detail in front of it at the present time. We have to wait for the county attorney to complete its work in this matter. Lawrence said so we are kind of stuck waiting for the county to do their work and then we can do that.

Moegerle said a resident contacted me and said, as of last week, there are about 31 horses. Is that the count you have? Zenvas said she volunteered for him for a year and a half and then there was a good 76. She said and then they removed 19 and then he added 13, so about back to the original 76. Moegerle said this person, also worked there and said 31; this person closed the gate at night, before the horses were out, and he has a different explanation why the horses got out. Zenvas said she was there on August 5th taking pictures and there were 76, just like when Keith and Dr. Jeff Johnson were there. Moegerle asked when is the inspection due for the IUP, biannual October inspection. Davis said he doesn't have a specific date, but we will probably send him a notice out next week that his semi-annual inspection that is due in the fall. Zenvas said the concern with that is when we were out there in August we know of at least one horse that was missed. The concern is, is it thorough enough? She asked do they go through enough of the property? Moegerle said after your involvement her guess is that it is going to be very thorough.

Jody Galvin said she was also there that day as well. She said the concern about the missed horses also pertains to when Mr. Streff and Dr. Johnson are not allowed to enter certain parts of the property. Galvin said there is a particular horse in question that was missed that

day that has a body score of a low 2. She said that actually now is on her property from a second party. Galvin said so that is where the concern comes in about the horses being shifted or missed. The “game” keeps getting played. Moegerle asked do you think these are being shifted to the Ham Lake portion of the property that we don’t inspect? Zenvas said partially it is. Also there is a round area in his barns, and she believes that this is where this horse was, in between the garage area and the stall area. She said that area is closed off and very overgrown, so unless you know that area is there, you are going to miss it. There are several areas like this. Moegerle said those kind of things will be important when we do the inspection, so if you can get that to the city administrator that would be helpful. Davis said as Council Member Moegerle said, he hopes this inspection will be very thorough in light of the situation.

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

Consent
Agenda

Moegerle made motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, September 21, 2011, Regular Meeting; C) Purchase of Used F-150’s; D) Resolution 2011-48 Declaring Surplus Property S-10; E) Resolution 2011-49 Declaring Surplus Property Olympian Generator); F) Resolution 2011-50 Declaring Surplus Property Playground Equipment; G) Resolution 2011-51 – Accepting Donations for Schoolhouse Project. Moegerle said she would specifically like to commend staff for coming up with the way to replace the S-10 with surplus from MnDOT and finding the generator to put on surplus and using the surplus property to pay for the playground equipment. She said this was very creative and resourceful and she really appreciates them finding a way to do this. **DeRoche seconded; all in favor, motion carries.**

Dale Johnson
– Interim Use
Permit- Horse
– 24282
Skylark Drive
NE

Davis explained that the applicant, Mr. Dale Johnson is requesting an IUP for the keeping of two (2) horses at his residence.

East Bethel City Code Section 10, Article V. Farm Animals, requires that no animals that are regulated by the code can be kept on a parcel of land located within a platted subdivision or on any parcel of land of less than three (3) acres. The 10-acre parcel is not located within a platted subdivision.

City Code has a limit on the number of animals per parcel. Two horses requires 2 acres of pastureland. Pasture land is defined as land with vegetation coverage used for grazing livestock. Pasture growth can consist of grasses, shrubs, deciduous trees or a mixture, not including wetlands. The property owner is in the process of fencing pasture land for the horses and constructing a lean-to type structure. The fencing and structure must be completed prior to the horses occupying the property.

The property is located in the shoreland overlay district. The pastureland is located approximately 75 feet from the edge of the wetlands surrounding Minard Lake. Staff contacted Anoka Conservation District (ACD) regarding grazing horses in the shoreland overlay district. ACD stated no special plans or permits are required since the horses will not be grazed in the wetlands.

City staff has conducted a site inspection. The property meets the requirements set forth in City Code for the keeping of farm animals.

Planning Commission recommends approval to the City Council of an IUP for the keeping of two (2) horses for Dale A. Johnson, located at 24282 Skylark Drive NE, East Bethel, PIN

30-34-23-12-0002 with the listed conditions.

Lawrence asked has the city has reviewed this and it is all in compliance? Davis said that is correct, they meet all the requirements for the IUP.

Lawrence made a motion to approve the Interim Use Permit (IUP) for the keeping of two horses for Dale A. Johnson to be located at 24282 Skylark Drive NE, East Bethel (PIN 30 34 23 12 0002) with the following conditions: 1. An Interim Use Permit Agreement must be signed and executed by the property owner and the City; 2. Property owner shall provide shelter and have a minimum of two (2) acres of pasture land for the horses; 3. Property owner must comply with City Code Section 10. Article V. Farm Animals; 4. Permit shall expire when: a. The property is sold, or b. Non-compliance of IUP conditions; 5. Property owners shall have thirty (30) days to remove approved domestic farm animals upon expiration or termination of the IUP; 6. Property will be inspected and evaluated annually by city staff; 7. Conditions of the IUP must be met no later than December 5, 2011. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP. Moegerle seconded.

DeRoche said he understands that the applicants loves animals, but he also understands what has gone on with Mr. Friday and he would like to see something in place to where someone can go out there and take a look at the horses to make sure we are not back in that same scenario. He asked if this is possible. DeRoche asked is there a mechanism in place where we could periodically check on these horses to make sure they are not having issues. Davis said that was a special condition for Mr. Friday only and that was because of past history and some issues. He said in this situation right here where there is no evidence of any issues he wouldn't recommend that. Lawrence asked how long is the IUP good for. Davis said the IUPs are either good for a specific stated time or indefinite. Hanson said with these types of IUPs, with conditions on them, staff goes out and inspects them a couple times a year anyways. She said we do annual inspections. Moegerle said it is a part of the ordinance. Hanson said yes. She said and if we see issues it would be a red flag for us and we would take the steps we would need to take.

DeRoche said and, not to beat up on these people, they are probably really good to their animals, but we don't want history to repeat itself. Davis said what he was getting at was staff does an annual check on these. He said but this isn't what we would want to require a vet to come look at for a number of reasons. DeRoche said he is not saying to be as stringent as it is on the other one, but there should be some mechanism to check. Davis said that would be our own internal process where we go out and do the IUP inspections. DeRoche asked you guys wouldn't have a problem with this would you? Johnson said if you need to come out, come out. DeRoche said it is not going to be an intrusive come out and tear your house apart. He said unfortunately your predecessors have had issues and so now everyone that wants to do this are going to be scrutinized the same way. **All in favor, motion carries.**

Alista &
Patrick
Schroeder –
Interim Use
Permit –
Kennel

Davis explained that Mr. and Mrs. Schroeder are requesting an IUP for a private kennel license for the keeping of five (5) dogs on the 9.91 acre parcel they have owned since 1996. Currently, they have four (4) golden retrievers and one (1) Jack Russell terrier. The dogs are not kenneled outdoors; rather they are housed in the home. There is a large fenced area where the dogs are kept when they are outdoors alone; otherwise, the property owners are typically outside with the animals. The Schroeder's breed the golden retrievers to have two

(2) litters of pups each year.

East Bethel City Code Chapter 10, Article II. Dogs, allows up to six (6) dogs on parcels five (5) acres or more but less than ten (10) acres with an approved private kennel license. Code requires dogs be confined to the property, outdoor housing facilities must not encroach on any setbacks, housing and shelter must be provided, feces shall be removed in a timely manner, and accumulation of feces must not be located within 200 feet for any well.

City staff has conducted a site inspection. The property meets the requirements set forth in City Code for the keeping of dogs.

Planning Commission recommends approval to the City Council of an IUP/Private Kennel License for no more than five (5) dogs for Mr. & Mrs. Schroeder, located at 22525 Durant Street NE, East Bethel, PIN 01-33-23-23-0005 with the listed conditions.

Moegerle said she was contacted by a resident in regards to this IUP, she doesn't know if anyone is present for this. Davis said he thinks the people that spoke to you work in the evenings and there is a letter attached in the packet expressing their concerns as well. Moegerle said she has that letter as well. She said she just wanted to ask some questions of the applicants. Moegerle asked if they are going to breed and sell puppies do they have to have a home occupation as well? She said we don't want puppy mills. Hanson said it hasn't been practiced in the past of people getting IUPs for home occupations for breeding pups since she has been here. Moegerle said she can understand for a kennel license, but the purpose here is to breed the pups. That is how she understood it. Hanson said yes, they are going to breed pups. She said she knows they are more family pets for them; they are not specifically for breeding. Moegerle said the letters said "We breed to have two litters a year and sell them at 8 weeks of age?" So it sounds like a home based occupation. Hanson said again just it's never been practiced in the past for this being a home occupation.

Lawrence asked so they are anticipating two litters of labs a year? Hanson said yes, that is all they have been doing. DeRoche asked is there any particular reason why they didn't come tonight to answer questions? Hanson said that she doesn't know. Davis said he received no notification from them. Davis said it is a common practice that sometimes applicants don't attend these functions. Hanson said they are always at the public hearing, but sometimes they just don't come to council. DeRoche said he was also contacted with concerns regarding this, and it is something he would have liked to have brought up with the applicant. Lawrence said a notice went to everyone in the area. Hanson said yes. Moegerle said there seems to be a neighbor problem here and with this many dogs it seems this could just exacerbate the situation. She said if we go ahead and pass this without them being here, she would like to caution them in that area in all of this. Lawrence asked are these dogs primarily held inside the house? Moegerle said and that is required by the kennel license. Hanson said it is not required, they are more family pets, they remain in the house.

DeRoche said apparently at some point they have been out, because they have created issues at someone else property. Hanson said they haven't created issues on anyone else's property. Are you talking about the letter? She said staff never heard any complaints about the dogs. All we heard was the letter that was part of the packet, and that had to do with bow-hunting on the property 12, 13, 14 years ago. It had nothing to do with the dogs. DeRoche said the complaint he had heard is where they come out of the kennel, where it exits onto this person's property. This is why he would prefer someone be here. Hanson said they don't have kennels; the dogs are in their house. The way the house is situated it is

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

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

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

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

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

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

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

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

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

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

the existing parking lot.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Discussion of Issues at Property

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

stores his equipment. He said several years ago we were all here, from Jackson, to Viking, to University, 5th Street, 189th and we got him a new building by the Movie Theatre. Seefeld said everything we good. He said now at the beginning of the year he starts moving all his equipment into his residence again, where we asked him to leave. Moegerle said he sold the building by the theatre. Seefeld said now he is running in and out again. He said during road restrictions he has trucks that are way heavy for the road construction. Seefeld said somebody had been saying it is for storage only. He said at 7:00 a.m., early, you hear those trucks, the workers fly down 189th. It is nice out, you hear their cars going. Seefeld said they pull in backside, and then you hear all the heavy equipment start, the heavy equipment leaves and runs down 189th.

Seefeld said now several times before we had this meeting, you come up to 189th and those big trucks come around there and sometimes they absolutely do not stop. Moegerle said she is confused. Are you talking about where his business is on Viking Blvd. or where he stores his equipment, his residence. She said this variance is to alleviate your concerns. Moegerle said he sold his property, that big property over there to Shaw Trucking. She said we understand there are many complaints about him storing those at his home. Seefeld said he is asking you, "What is the definition of storage?" He said come down there and see it, have a picnic with me and you will hear the trucks coming back and forth. Seefeld said storage is where you are going to leave it until you are going to use it until winter time. Okay then you pull the trucks out and all summer they sit. He said it is not two/three times a day. Seefeld said if you are going to give him storage, we walk the streets, we ride our bicycles and these trucks do not come. If you walk the street on 189th Street, those trees come west and his heavy trucks you can see where they are tearing the roads down. He wants to know your definition of storage.

Moegerle asked what district does Hoppe live in. Hanson said Rural Residential. Moegerle said what she is looking at is Section 24 of our Zoning Code and for Rural Residential "All personal property shall be stored within a building or shall be full screened so as not to be visible from adjoining properties or public streets except for the following: play and recreational equipment, stacked firewood, agricultural equipment and materials if these are used for intended for use on the premises within a period of 12 months, a maximum of 5 motor vehicles or recreational vehicles or boat trailer combinations or snowmobile trailer combinations or items of lawn equipment or construction equipment with a weight limit of 20,000 gvwr or other equipment or trailers or other combination thereof may be stored outside of structures at any time. Storage must be on a driveway or outside storage area, must be screened from the public right of way and adjacent lots." Moegerle said this is pretty much what it says.

Vickie Hoppe said she is here for Gordy. He is out of town and could not make it. She said we do not run the excavation business out of our home. We run it at the 1861 Viking Blvd. location, the cabinet business, which we have had there for several years. She said the equipment is stored at our home in our buildings. Vickie said the guys leave at 7:30 a.m. and do not return until 3:30 p.m. She said they do not make me money if they are sitting at home. Seefeld said there was one that came around at noon today. Vickie said she has been home all day and the guys haven't been there all day. Vickie said we live on the cul-de-sac on 189th on 60 acres back there. Lawrence said they are moving from the house to the cabinet shop. That is what we approved tonight. Moegerle asked when does he expect to have the additions done on the Viking Blvd. buildings? Vickie said it depends on the weather; we are shooting for sometime next summer. Moegerle said and that is for both of them. Vickie said yes, for both of the variances. She said the detached building houses the

lumber right now that they use to make cabinets, and so in order to be able to add on to that building we have to add on to the cabinet shop so we can move the lumber so that can stay inside. Moegerle said in part of the write-up on page 58 it says "Mr. Hoppe's intentions are to complete the construction this fall weather permitting. If not, plans to continue in April with completion in mid-May." Vickie said that is correct.

Moegerle said she understands Seefeld's concerns, but she thinks it is a separate issue from the Viking Blvd. issue and she thinks there is a process (if the Mayor agrees) by getting on the schedule and so forth. She said she is not saying your concerns are not valid, she is saying this is not the process to do this, because what we just did is on Viking and you are talking about a situation in another area. Now that we are aware of it, maybe we can kick it around at the next meeting.

DeRoche asked is Hoppe staging out of his home? Hanson said he stores his vehicles there. She said her understanding is he does his bookwork and everything else out of Viking Blvd. Hanson said they have nowhere to store the commercial vehicles at this point. She said and the way the code reads is he is going their every night, storing them and using them the next day. DeRoche asked of the complaints we have got, how are you dealing with that. Hanson said the way that we can address it is the storage of commercial vehicles, because technically it wouldn't be a home occupation because the business isn't run out of there. She said we have told individuals in the neighborhood that if you can give us an invoice saying that indeed the business is being ran from that property it is a whole different way that we would approach it because now it is a home occupation. Hanson said he is storing his commercial vehicles there because he has nowhere else to store them at this point. DeRoche said he is looking at both sides of this. If someone was staging like this and bringing their commercial vehicles in and out everyday. He said he had this happen by his house; couple well-to-do people built a really nice house and basically ruined the road with the trucks. DeRoche said it was a nuisance. He asked is the resolution to make both people happy, he is going to put he buildings up that is where he is going to store his stuff, but in the interim these people don't want to hear these trucks anymore at 7:30 a.m. So, there has to be someway.

Hanson said he meets the requirements for the noise ordinance. Moegerle said this has been discussed before, but was there an IUP at that time. Vickie said years ago we had an IUP, but we let it expire when we moved to the Buchanan location. DeRoche asked what is the time frame, put the buildings up to store them and they won't be going down that road any longer, correct? They won't be staged out of there. Vickie said most of the equipment will be stored at the Viking Blvd location. We are currently trying to sell some of our equipment and what doesn't fit over at our Viking location we will probably still have to store at our home. She said but for the most part, what the guys use on a daily basis will be stored at the Viking Blvd. location. Moegerle asked would you be willing to apply for an IUP for the rest of the time until you can store the equipment on Viking? Vickie said basically her guys leave in the morning at 7:30 a.m. and don't come home until 3:30 p.m. She said she has two kids and two dogs. Vickie said she has to get the kids to school and off the bus. She said her guys follow all the weight restrictions and road restrictions, they follow the speed limits.

Moegerle said one of the things is that when you are around construction you have a certain tolerance for noise and speed and others that aren't around construction don't have the same tolerance for this. She said so you can see we are in a pickle here to make everyone here a little upset and not a lot upset. Vickie said we have a pick up truck on site to come home if they need something, so they don't need to bring the big truck home. Moegerle said she

doesn't want to go too far down this road since this isn't on the agenda but she does want you to get some satisfaction from this. She said Mr. & Mrs. Hoppe are running a business on Viking and they are storing their equipment at their residence which they are allowed to do. Moegerle said and they are working very hard by getting a variance, spending money in advance of when we are going to rezone this, so that is some indication to her that they are taking this very seriously. Her question is and it is bad for that equipment to sit outside, they are employing people which is good, what is the solution that works for you, that accommodates this.

Seefeld said well, winter is coming, the diesel trucks have to run for a long time and they vibrate the house. Personally every one of us saw the trucks when the road restrictions were on, with the big back loader running up and down the streets. We don't like the sounds. "How to deal with it?" He doesn't know. Lawrence said we just dealt with this by telling them they could build their buildings out here on Viking. Seefeld said he just built another big barn on his place. Moegerle said the ordinance says this is permitted. Seefeld said what is permitted. Moegerle said it says these can be stored. Seefeld asked what is storage? Moegerle said she just read that to you.

DeRoche asked what kind of time frame are you looking for these buildings to go up. Lawrence said it will depend on the frost. Vickie said it depends on weather. DeRoche asked have you looked into off-site inside storage. Vickie said that is a financial issue at this point. She said the housing market has not allowed that to be a solution. Moegerle asked and how close are they available to your workplace? Are they available within a 5 mile area of your Viking location. Vickie said no, we have looked at places in Isanti and Ham Lake. Lawrence said you are in compliance of what they are doing. He said second, you have to do this properly, at the right time. Seefeld said we have complained. Lawrence asked have you contacted the city administrator? Seefeld said no, we have filled out all the forms and made the complaints and it was always explained to us about storage and we didn't know the understanding of storage. Lawrence said contact Mr. Davis, and put it on the agenda so we can discuss it. Davis said if you contact me we will see if there is some alternative or resolution and we will put it on the agenda for city council.

DeRoche asked if the paperwork is being done out of Viking Blvd. but the workers are showing up to the house and they are staging their trucks there, are their operating out of the house, or out of Viking. Vickie said all the calls are taken at the cabinet shop at Viking, all the work is done out of the there. She said the only other alternative is we can unemploy all these guys and let the trucks sit. DeRoche said that is a little unpractical. He said you have to understand here, we are kind of trying to make both sides happy and if someone has a snap-quick solution he is more than happy to listen to it, because he is more of a "take in the facts and make a decision kind of guy." He said and eventually the trucks are all going to be stored on Viking. But these people have been hearing noise and they are kind of irritated and you have to give them that too. DeRoche said and he always tells people put yourself in someone else spot and see what they are going through and then make a decision. Vickie said the way she looks at this is there are several other people on their street that are running home occupations on our street that don't have IUPs that come and go with trailers and heavy equipment. She said she doesn't care what everyone else does personally as long as they are making a living and paying their bills. She doesn't care. DeRoche said he thinks the best thing is for Seefeld to meet with the city administrator and city planner.

Consideration
of Zoning

Moegerle said she has asked some questions about this. She said and she is concerned (she appreciates the circumstances here) but she understands that if we do any ZTA, it opens up a

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

can of worms, you set a precedent. Lawrence asked shouldn't this go to the Planning Commission first? Moegerle said then we would end up spot zoning and she is real concerned about that. Because once we set the precedent then that is a problem. She said but if we were to add a land use where this would work, (it would be a comp plan amendment) we could get it done and do it right and not be burdened with a ZTA that will come back again and again. Moegerle asked should this go to the Planning Commission first. Lawrence said he thinks the trouble we have here is this gentlemen is up against the weather. Davis said a ZTA will take a minimum of 60 days with all the public hearings. He said the reason it was brought to Council first was to see if they wanted to go down this road and explore the possibilities of this as a consideration. So we wanted to bring this to your attention and see if you wanted to direct us to proceed in this way. He said the next step would be to go to Planning Commission for the public hearings, then come to Council for approval. Davis said but remember, that is why he put this in here. If this is approved, this would not be exclusive to this location that Mr. Howe is requesting, and it would be open to all B2 locations in the City.

Lawrence asked with allowing Open Sales of Boats, what exactly are we opening ourselves up to? Hanson said it would be exactly that, anywhere in the B2 zoning district boat sales would be allowed. Moegerle asked and what is particularly designed for. Hanson said more of strip mall, completely indoors retail. Lawrence said he thinks B3 allows outside storage and B2 does not. Hanson said in B2 you can have outside storage with a CUP, but only a 100 square feet. Moegerle asked and what kind of time frame would it take to get a comp plan update for a new business zoning district? Hanson said her best guess would be February, and that is because it does need to go through the Metropolitan Council. Vierling said with notice to adjoining cities.

Moegerle said the Council would like to make Mr. Howe happy, but she is concerned about the ZTA coming back. She said she realizes for us, February will be here in a snap, but for a man wanting to make a living, not so. Lawrence said he is trying to catch all the people trying to winterize their boats right now. Another month he will be out of the winterization process. Davis said even with a ZTA we couldn't make those kind of time frames. He said we originally met with the gentlemen and talked about an IUP, but we can't do an IUP because it is a non permitted use. Moegerle said she thinks we kick this back to Planning Commission to come up with a recommendation. DeRoche said this has to be done right. Too many things that have been done in the past that have been half-cocked and have got us in trouble. Lawrence said and that is why we need to get this defined. Because right now we would be spot zoning this place and he doesn't think we can do that without really looking at this issue.

Moegerle asked for clarification on the time frame difference between ZTA and comp plan amendment. Hanson said ZTA would be end of December and comp plan amendment February. Moegerle said so he would miss his prime business anyway. Davis said if we are going to do this. A comp plan amendment would be the best way to do this. He said that it insures we are addressing the problem at its root. And that way we can create a different zoning classification within the city to accommodate these kinds of uses, and also to develop a set of standards and criteria for these uses. Lawrence said because this is a broad boom, we want to investigate and make sure this is the way we want to go with it. Davis said so as the way he understands it, we are to go with the comp plan amendment. Moegerle said take to Planning Commission and get a recommendation on a new zoning.

Consideration Davis explained that staff has been approached by Mr. Timothy Chies, property owner at

of Zoning
Text
Amendment to
allow Open
Sales Lot –
Motor
Vehicles in the
B3 Zoning
District

18803 Highway 65, East Bethel to allow an open sales lot – motor vehicles in the B3 – zoning district. Current zoning code does not permit open sales lot – motor vehicles in any zoning district.

Prior to three (3) years ago, Ham Lake Motors sold vehicles from this property as a legal, nonconforming use. However, since open sales has not occurred within the last three (3) years it is no longer a permitted use. City code Appendix A, Zoning, Section 5.2 states that "nonconforming uses may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion unless the nonconforming use or occupancy is discontinued for a period of more than one year." This language is in conformance with Minn. Statutes 462.357, Subd. 1e. Nonconformities.

Attachment #1 is an email from Mr. Chies requesting City Council to allow motor vehicles sales in the B3 zoning district.

A ZTA for this proposed use in the B-3 zone would not be exclusive to Mr. Chies's request but would open this entire zoning classification to this exemption.

Staff seeks direction from City Council to regarding a ZTA to allow Open Sales Lots – Motor Vehicles as a conditional use in the B3 zoning district.

Lawrence said his question on this is much different. He said B3 allows outside storage, how much. Hanson said she believes it is limited to like 50% of the rear yard. Lawrence said and currently we do not have any ordinance that allows motor vehicles sales in the city limits. Moegerle read: "exterior storage in the B3 district shall be limited to an area occupying no more than 50% of the rear yard, and shall not be allowed within the required setbacks, public right-of-way, and private access easement or within the required parking area." Hanson said she knows there is a provision for outdoor displays areas. Lawrence said if we were to revise our ordinance, it would be a B3 ordinance that we would be adapting to auto sales. Hanson said yes. Lawrence said then why don't we just take that time and get that B3 adjusted so it reflects auto sales so we can legally have auto sales in East Bethel. Moegerle said and we are not allowed to have new car sales here, and she thinks that should be addressed generally, and car repair, look to see where those need to be zoned. Davis asked do we want to do this as a ZTA or comp plan amendment. Lawrence said he thinks we can do a ZTA on this one, because it is more to what the actual B3 zoning is. Moegerle said she thinks it sets a precedent. Davis said and too, with the storage requirements, if it is 50% of the rear yard in this case, he doesn't think there is much rear yard at this business so we would have to do more than reclassify the zones. We could have to rewrite some of the conditions too. Moegerle said she thinks we need to be consistent. Davis said he would agree, if we are going to do something on this, it should be consistent. Do a comp plan amendment so we are consistent and address all the issues that are known to us.

Tim Chies, owner of property you are talking about, said one of the frustrations he has had with auto sales is (and we have done a good job of cleaning the property up) frustration he has had with sending people to the City is he assumes you guys drive up and down Highway 65 and you see a number of car sales lots from Blaine Dodge, etc. Car sales means there are going to be cars out front being displayed and sold. Chies said that is not really storage, that is displaying of goods. He said and it becomes very frustrating when you worry about the storage units in the back. Cars need to be out front. Lawrence said exactly. That is why we need to change the ordinance, to comply with that. Chies said right, he just wants you to remember as you drive from Fridley to Cambridge and you see these, the cars need to be

seen, people need to see these, to be sold. He said you guys got a lot of great stuff going with city water and sewer; a lot of forward stuff going on, so he just wanted to make sure you don't try to tie these guys' hands.

Davis said that is why we want to address this, because the way this is written your storage up front is based on your rear yard and that doesn't make any sense. Chies said he appreciates you guys being forward thinking. He said every time he has come with a development it has been stopped. DeRoche said a lot of this stuff was here before we came. He said and government works slow. Chies said he understands. He said it is nice when you go to a city and they say what can we do to make it work. Chies said it seems odd to me that East Bethel is the only place you can go and not get a car license. He said it gives the people that own those businesses a monopoly.

Pay Estimate #5 for Phase 1, Project 1, Utility Project

Jochum said this item includes Pay Estimate #5 to S.R. Weidema for the construction of the Phase 1, Project 1 Utility Improvements. The major pay items for this pay request include interceptor sewer construction along TH 65, sewer and water crossings of TH 65, street construction on 185th Avenue and Ulysses Street and sod and restoration on Buchanan Street. Two separate payments will be made. One payment will be to S.R. Weidema and the other will be to the escrow account established at TCF Bank. We recommend partial payment of \$898,497.63. A summary of the recommended payment breakdown is as follows:

Contractor Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$2,231,700.04	\$1,840,612.78	\$391,087.26
City	\$1,701,493.83	\$1,239,008.34	\$462,485.49
Total	\$3,933,193.87	\$3,079,621.12	\$853,572.75
Escrow Payment Summary			
	Totals to Date	Less Previous Payments	Amount Due this Estimate
MCES	\$117,457.90	\$96,874.36	\$20,583.54
City	\$89,552.31	\$65,210.97	\$24,341.34
Total	\$207,010.20	\$162,085.33	\$44,924.88

This estimate includes payment of \$853,572.75 to S.R. Weidema and \$44,924.88 to the escrow account for a total of \$898,497.63. Payment for this project will be financed from the bond proceeds. Funds, as noted above, are available and appropriate for this project.

Staff recommends Council consider approval of Pay Estimate #5 in the amount of \$898,497.63 for the Phase 1, Project 1 Utility Improvements.

DeRoche motion to approve Pay Estimate #5 to S.R. Weidema in the amount of \$898,497.63 for Phase 1, Project 1, Utility Improvements. Lawrence seconded.

Moegerle asked have you double checked all this and you are sure this is all correct and could you also give us an update on how this project is going? Jochum said yes, we have double checked the numbers and we are okay with them. He said everything south of 187th Lane is pretty much complete, except for the wear course, the theatre parking lot and some back fill. Jochum said he thinks tomorrow they are going to start pushing the main sewer pipe across 187th Lane heading north, past that pond area. He said that could take some time, and you will see some excavation there but that is more for dewatering. They are not going

to dig a trench in that part. Jochum said the theatre and bank are anxious to get their parking lots put back together. That will all happen in the next couple weeks here. Lawrence asked how are they handling the newer conditions with the soil. Jochum said they haven't really gotten into the muck yet. He said after they finish by the pond area, then they will find out how soft that is going to be. DeRoche asked wasn't there talk of pedestals with the pipe? Jochum said they call it a grade beam. It is putting the pipe on a slab. He said they are not sure if they need that yet. Jochum said if they can dig through the soft areas, they will backfill it with some stable material, but this is to be determined yet. Lawrence asked how big is pipe they are going to push under the road. Jochum said 42".

BDM
Compensation
Claim

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

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

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

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

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

Mr. Mundle is also seeking interest charges on the overpayment claim of \$10,689.90 or a total of \$40,124.90 as repayment from the City. Mayor Richard Lawrence, Council Member Bob DeRoche and staff met with Mr. Mundle on Monday, September 12, 2011 and advised Mr. Mundle that the City did not pay interest on funds that are escrowed. Mr. Mundle's overpayment was initially put into a SAC fund but these monies were eventually used to pay off a portion of the sewer indebtedness for Whispering Aspen/Castle Towers.

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

Staff is recommending that Mr. Mundle be issued a credit for \$29,435.00 for future Whispering Aspen City SAC and WAC fees based on the overpayment as listed in the

attachment. This recommendation includes no credit for any interest on the compensation claim or any credit for MCES sewer availability charges that may be applicable at any time in the future.

Davis said he had a conversation with Mr. Mundle today and Mundle requested he be paid a cash settlement on this. He said he told Mr. Mundle that the fees he that were paid by him were put into an escrow account, but that escrow account went to pay off debt on the system. Davis said so we don't have the funds for a cash settlement for anything within the sewer system. He said it would be up to City Council to determine if they want to make him a cash payment. However, staff is still recommending that a credit be issued, but that the credit be documented to satisfy Mr. Mundle's concern that he would be able to cash in on this at a later date. Davis said there was a request made to document the history of this. He said Ms. Warren looked through everything once and he went back and looked through everything twice. We couldn't find anything additional on this.

DeRoche made a motion to issue Mr. Brian Mundle a credit in the amount of \$29,435.00 for future Whispering Aspen SAC and WAC fees. This includes no credit for interest on the compensation claim and no credit for MCES sewer availability charges that may be applicable at any time in the future. Lawrence seconded. Lawrence said he talked to Mundle and he would like to use this as City credit so he could use it for anything fees he had to pay within the city. **DeRoche amended his motion to allow this as a city credit, to be used for any city charges. Lawrence seconded the amendment; all in favor, motion carries.**

Ordinance 31,
Second Series,
Amending the
Right of Way
Management
Ordinance

Vierling explained the city has an existing right of way undergrounding utility ordinance in place. He said this is not a new ordinance; this is an amendment of an existing ordinance. Vierling said he will highlight the amendments: amendment that will elect to management the public right of way, the city's intent with the original adoption was to follow the statutory framework that was afforded you by the legislature, but the language in terms of the actual opt in he doesn't think was as clear as he desired and that matter in Section 2 of the ordinance is fundamentally a housekeeping item. So we are officially opting in under the statutory framework. He said definitional sections that are in this ordinance missed a few, and thus we are recommending in Section 3 the term Right of Way User and Utility Permit be amended into the ordinance. This is also consistent with the ordinance recommended by the League of Minnesota Cities (LMC) and we think it is consistent with what you wanted to accomplish.

Vierling said the city's ordinance does have an existing definition and utilization for the term Service or Utility Service, but again we recommend that this definition isn't as complete as it could be or as it should be, and we are recommending an amendment to that section which is in Section 4 as you have before you. Vierling said again Section 5 does not have a term for Overhead Facilities so we are recommending a term is added under those provisions, and you see the language we have added in front of you. He said the city does have existing undergrounding requirements that apply to all utilities. This ordinance is not directed to any particular utility, and it applies to all utilities that would be within the city's right of way. The existing underground utilities language that you have in the existing ordinance is very broad and in our view is a little bit too comprehensive for what you have. We ended up looking at that and our recommendation is a new section, which is in Section 6. Vierling said one of the reasons we suggested that is the existing ordinance doesn't have a clear delineation of exceptions to undergrounding. He said in this particular section that we are recommending, subd. 1 & 2 do provide specific authority to the Council to exempt a

utility when they come before you for the permit that they will have to apply for, relative to undergrounding. It give the Council an opportunity to not have to underground if you find that the placement is not technologically feasible due to topographical subsoil or existing conditions, or find that the undergrounding as proposed would fail to promote the purposes of undergrounding and again purposes have been specifically defined in subd. 1 Sec. 62-162. Vierling said and we confirmed the developer responsibilities in that section as well.

Vierling said so, as he notes, this is not a new ordinance. This is in many respects an updating, a housekeeping of the existing ordinance and clarification of what was in the existing ordinance to date. He said also he notes that the Council received a letter from counsel on behalf of GRE, and think the viewpoint of GRE is that this ordinance only applies to them and it does not. It applies to all the utility providers. He said there are certainly environmental issues that have raised themselves in regards to any utilities. However it is the Council derogative and certainly the policy that the Council will establish policy on undergrounding within the city, review applications of those if there is an application and the city has a much better opportunity to make those calls under the proposed ordinance than they did under the past ordinance.

Vierling said certainly there is a cost to any undergrounding that goes on and that will vary from utility to utility, the compensation, or monetary claim that is made there relative to that being passed back to the cities rate payers. That is certainly going to be something that will be subject to the debate. He said he doesn't think the Council wants to get into a debate on that tonight; suffice it to say that once the ordinance is passed you have the opportunity and option to deal with it at a future date. As opposed to if it wasn't passed then you would not have this opportunity at a future time. Again counsel from GRE claims the city does not have the legal authority and assume they would have the same objection to the existing ordinance. The amended ordinance has followed the format that came through the LMC and GRE has also consulted with legal counsel on the matter and we disagree. Finally we wish to note that the final portions of the GRE letter state that this is some form of retaliation against GRE. We are not adopting a new ordinance. We are amending an existing ordinance. In fact this amended ordinance provides a greater latitude for utilities than the previous ordinance did. He said so from our standpoint, we certainly disagree with the commentary, we understand that the counsel from GRE wants to make their presentation and that is fine.

Vierling said staff does recommend the amendment to you. We think it is an improvement over your existing ordinance and it is a much better framework to deal with undergrounding issues, not specifically dealing with GRE alone, but dealing with all the utilities that serve your community and will be looking to locate their utilities within your rights of way.

DeRoche made a motion to adopt Ordinance 31, Second Series, Amending the Right of Way Management Ordinance. Moegerle seconded. Moegerle asked do we need a super majority to pass this? Vierling said no, you do not need a super majority on this type of ordinance. Moegerle said she appreciates your initiative on this. She said she knows you have been comparing East Bethel to a lot of other cities and she appreciates that. Moegerle said she knows that we have the adoption of the state building code ordinance pending. She said at Planning Commission we have been talking about the City Center and how we want the appearance and she is sure we don't want to have any wires of any type hanging there. Moegerle said living at Coon Lake Beach and with those 100 year old trees, if you get a breeze over 50 mph they drop branches over 10 inches wide and it takes out the power. This is long overdue and she greatly appreciates your initiative. Thank you.

Paul Zisla, attorney presenting GRE, he said he would like to start with the most contentious point and get that out of the way. He said he is not here to talk about that last paragraph. He did use the word retaliation, and he wants to set that aside. Zisla said he wants to talk about and emphasize the crucial points for your consideration. He said to understand the impact of what may be happening here. Zisla said we read the ordinance as now including transmission lines. He said you did not include transmission lines previously. Zisla said we are not here to debate with Mr. Vierling or Mr. Strommen. We are going to disagree on that. He said we always say if there is a question, any uncertainty, the regulatory experts should talk about that. Zisla said we do want to make a record on the environmental consequence of that. Underground transmission is highly disruptive. It requires more right of way. It is significantly more disruptive than building aboveground. He said we know you have concerns about the environment, but you could be going in the opposite direction. Zisla said we have a problem with any ordinance that is so wide open that we don't know going in what the rules are and when there is uncertainty and a case-by-case determination. He said it can be technologically feasible to underground, but still highly problematic. Zisla said on the cost figure we don't have a route yet, don't have a specific plan. We want you to be aware that there is a significant cost, undergrounding cost significantly more than above ground. He said the tone is wrong; it is going to have to be paid for.

Zisla said we have told you our policy in our letter. He said we stand by our letter. Zisla said your attorney has said this is something that can be dealt with later; it is going to be dealt with. He said this ordinance is leading to requiring underground in transmission, that is a cost and it gets paid for through the system. Zisla said those are the highlights, Pete Schaub is here if you have questions about the construction. Our points are laid out in the letter, self explanatory. He said your attorney said this wasn't directed at GRE, or comment is this is including transmission and it is something new and we think that is problematic and you need to think about environmental and financial consequences of this policy.

Moegerle asked Vierling reiterate about the LMC that this is their approved form. Vierling said the LMC has long since come out with a couple different models, but this is one in regard to right of way management and there have been revisions and updates to it and the LMC was one of the models we took a look at with regard to this matter. It is our compilation of the LMC and several other metropolitan cites and what they have done. Moegerle said she searched today's packet for the word transmission and she didn't come up with it. She said this fits in context with what Planning Commission has been talking about, City Centers, PUDs, our experiences, and she likes that it gives us more options. **All in favor, motion carries.**

Council Reports - Moegerle

Moegerle said the Planning Commission meeting was her big order of the day, we have been talking about City Center, PUDs, and a lot has been discussed about what is the vision and architectural styles. How not to make it cheap and not do cookie cutter styles. She said we have had some discussions on EDA and parks and trails. Moegerle said she knows you have seen a map and how we want our trails to connect up and how they don't connect up and make use of our public land, and it looks like we have opportunities there.

Council Reports - DeRoche

DeRoche said he went to fire department meeting on Monday. He said they plan on burning the Thompson house on Saturday night, weather permitting, this is in the Red Flag area, there is no open burning in the state. He said if we don't get rain and the wind is up they won't do it.

DeRoche said the fire department Open House is coming up, it is on the City web site. He said also the fire department is slated to go to the elementary schools and shake hands and show them the fire truck. He said the fire fighters dance turned out good.

DeRoche said we had a little discussion, a can of worms opened up but it turned out good. He said the new truck came in, it is not on the road yet, there will be changes to the insides and the trailer should be here next week.

Moegerle said did you hear about the break-in? The handgun case, where the gun was stolen and tossed away before the deputies got him and it is still in the Coon Lake Beach area somewhere.

DeRoche said he is still looking at changing the four wheel ordinance, they go 40-45 mph down the road with no helmets, but again he thinks that is more of an enforcement issue. He said there are plenty of rules and he doesn't think we need to hammer people on it. He thinks we are losing out on a lot. DeRoche said it is unfortunate that there will always be people that are dumb. Moegerle said she pulled up our ATV ordinance and it pretty much just talks about tracks and enforcing state statutes. She said Oak Grove did a resolution stating the officers are not to enforce state or federal rules on city streets. DeRoche said if you live in Linwood you can ride on the right side of the road. He said but you have to live in Linwood to do this. DeRoche said he was one of the first instructors in the state. He said he spoke to the previous city administrator about this and he said it was the same as the snowmobile ordinance.

Council Reports -

Lawrence said it has been an exciting week. He said we are keeping an eye on the sewer and water project. Lawrence said they were going to start doing the test pumping on the wells. Jochum said they had a little problem on Anderson's field. He said we have to wait until that is taken care of. Lawrence said we did some good work today. He said we are not just focusing on GRE, that is little; we are looking at this as a whole city coming together.

Closed Session – Union Negotiations and GRE Litigation

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

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

Vierling said the Council has concluded the closed sessions. He said attending were Council Member DeRoche, Council Member Moegerle and Mayor Lawrence. Also attending were Jack Davis, city administrator and myself, city attorney. Vierling said in the matter of GRE vs. City of East Bethel no specific actions or motions were made. He said in the matter of the Teamsters Union Negotiations the Council received an update and direction was given to staff, but no specific actions were taken.

Adjourn

DeRoche made a motion to adjourn at 11:02 PM. Moegerle seconded; all in favor, motion carries.

Attest:

October 5, 2011
Wendy Warren
Deputy City Clerk

East Bethel City Council Meeting

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