

EAST BETHEL CITY COUNCIL MEETING

March 16 2011

The East Bethel City Council met on March 16, 2011 at 7:30 PM for their regular meeting at City Hall.

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

ALSO PRESENT: Jack Davis, Interim City Administrator
Nick Vivian, Acting City Attorney
Craig Jochum, City Engineer

Call to Order **The March 16, 2011 City Council meeting was called to order by Mayor Lawrence at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the March 16, 2011 City Council agenda with the addition of the memo from the City Engineer regarding the additional test well as agenda item 8.0 A.5. Moegerle asked to also add a brief Executive Session ACHRA for strategy only. Voss said he is fine with that as 9.0 C.** Boyer asked if our legal representative George Hoff is going to be in attendance. Moegerle said it is just for strategy. not in attendance. Boyer said he doesn't know why we would have a strategy meeting without our legal representative in attendance. Moegerle said Vierling would be here, but his alternate is available and she discussed it with Davis and he didn't think there would be an issue. Voss said we should go into closed session to discuss this. **Moegerle said she would also like to add 8.0 G.5 Ordinance Reviews.** She said this general updating of city ordinances. Voss asked can't we just put this under council reports since we have no background information. Moegerle said this is at the request of the City Administrator, he wanted to discuss this, correct. Davis said that is correct. Boyer asked what he wanted to discuss. Moegerle said the topic of updating city ordinances. Boyer asked is there a reason this information can't be in the packet on Friday, we do this every time, amending and amending. He said this is a serious question. Lawrence said they just marked it in there; if you don't want to put it in there, just make a statement about it. Boyer said unfortunately that is not the way it works. He said she is making a motion to amend the agenda and we have discussion on the motion, this is the way it works. Lawrence asked do you have something to put behind this besides complaining about it. Boyer said yes, he has something to ask staff, why are we doing this. He asked why do we not have a complete packet anymore. Davis said this is something that was brought up after the packet was assembled and went out and it was something that we wanted to get direction on. Boyer asked is it time sensitive in someway that it can't wait until the next meeting. He said that is his point. Boyer said might someone in the audience want to make a comment on an ordinance that they might want to see revised. He said do as you choose. Voss said he is fine with the amendments. **DeRoche seconded the agenda as amended. Boyer, nay; DeRoche, aye; Lawrence, aye; Moegerle, aye; Voss, aye; motion carries.**

Sheriff's Report Lieutenant Orlando gave the February 2011 report as follows:

DUI Arrests: There were two for the month of February. One was a vehicle traveling on Hwy 65 southbound in the northbound lanes. The driver stated she had been at a bar in Blaine drinking which did not make sense with the location.

Another driver was arrested after he was seen driving erratically out on Coon Lake, with no head lights on, after midnight. The driver advised he was drunk and stupid to be driving.

There were 2 thefts from vehicle reports for the month. Both vehicles were parked at businesses with backpacks/purses left inside the vehicle. When the owners returned to the vehicle they found a window broken out and their backpacks/purses stolen. The Sheriff's Office recommends not leaving valuables inside your vehicle, thinking it is safe because the vehicle is locked. As spring is approaching the number of theft from vehicle reports increases and it is a good time to remind everyone to lock valuables away in your trunk or take them with you. If you choose to lock them in your trunk, do so before you reach your destination, because if people are watching they will break your window and push your button and break into your trunk.

Last week there was a search warrant executed at a residence in East Bethel where a meth lab was found. The homeowner was arrested. First active meth lab in Anoka County this year.

Crime trends that are occurring within Anoka County:

Currently we are seeing an increase in burglaries to homes, during the day. The suspects are gaining entry by kicking in the rear doors of residences, opening the garage door, and parking their vehicle inside to fill with items from the home. When they leave, they leave the garage door open. If you see any type of suspicious activity going on, please don't hesitate to call 911 – our deputies cannot be everywhere and its alert neighbors who help us solve these types of crimes.

There is an on-going issue with thefts of outgoing mail. Make sure to utilize the blue post office mailboxes instead of using your curbside mailbox when sending mail. Mail thieves target mailboxes that have their red flag up. They will take your mail, being able to obtain bank account information (if you are paying bills), as well as credit card information (if you are mailing a credit card bill). These thieves will in turn create new checks with your bank account information or "wash" the checks that you have written and make them out to whomever they want. This can create a nightmare for you trying to clear your name from the fraudulent checks.

Copper thieves are hitting abandoned homes. They will break into a residence and take out all the copper piping located inside. Once again, this type of crime will be solved only with the help of diligent neighbors.

A new lucrative method for thieves to raise money is to hack into social networking sites and obtain relative information. The thieves (who are usually in Canada) then call and claim to be the person's grandson or granddaughter and being held in jail until someone will post bail for them. The unsuspecting relatives believe this is real and end up sending money which is very rarely recovered. Unsuspecting relatives are being bilked out of thousands of dollars.

Miscellaneous Information:

The Sheriff's Office does have a full time recreational deputy. He does enforcement in all of our contract cities. If you are having any issues with snowmobile /ATV/ watercraft problems please contact a deputy so he can pass the information along or you can contact Deputy Sink at the Sheriff's Office.

When you see a deputy out on a traffic stop, and want to talk to them, please do not stop and approach them. This creates a safety hazard for the deputy, as well as other concerns. When a deputy is out on the stop, they are concerned with their safety as well as the safety of others. Many accidents occur on the roadside by people who “don’t see the lights” etc, and the deputy needs to be able to concentrate on the incident they are dealing with at the time. If you do need to talk with a deputy, you can call 911 and someone will either come to your house or if you don’t want them to respond to your house, they will give you a call when they are clear.

Boyer said he wants to congratulate the deputies for busting the meth lab, he is sorry to see a recurrence, but he is glad to see you got one. Lawrence asked is the home safe. Lieutenant Orlando said the home is posted as uninhabitable. DeRoche said the fire chief told him this is the first time the state hazmat team has come out. Boyer asked are we going to be doing well testing. Davis said he will have to check with the building official and fire chief. He said he knows the first testing came back that it wasn’t too bad, but he will follow up with them. Boyer said in the past when we have dealt with this there was an issue with a couple of the neighbors wells

Karen
Skepper –
ACHRA

Karen Skepper said she is the Director of Community Development for Anoka County and the Assistant Executive Director of the HRA. She said MN Statute 469 defines the activities that can be undertaken by a HRA or EDA. Skepper said our HRA is very active with housing activities for all income groups. We have focused on market rate senior housing and have senior housing in Ham Lake, Centerville, Ramsey and Oak Gove. We have done county wide housing studies, and our most recent was released last month and will be on the county website. Skepper said we have done American Recovery and Reinvestment Bonds for the Fridley Medical Center (new construction) and Park River Estates nursing home expansion/conversion to rehabilitation. She said we help with conduit financing; we help Epiphany Stars and the National Sports Center. Skepper said we have done site specific market analysis, Make Heights Your Home, Down Payment Assistant, Redevelopment of residential property, Community Assessment Reports (lot by lot assessment of septic systems), and funding for non-compliant septic systems and well replacements.

Skepper said our HRA has helped in the planning area with Comprehensive Plan Updates for most cities, and city directed activities related to either housing or development for East Bethel, Columbus, Columbia Heights, St. Francis and Ham Lake. We have helped with planning for natural disasters, Watershed Planning, technical assistance, the Livable Communities Act – we will be meeting with the East Bethel city planner on Friday to assist and you can use our score for LCA funding if your score isn’t high enough ours is a 95 out of 100 in the livable communities survey. Skepper said we helped NowThen with alternative funding for a project funded with federal dollars that couldn’t move forward. She said we did a mobile home removal/replacement project in Hilltop and in Columbia Heights we undertook planning activities including appraisals, market analysis, and provided funding for demolition and redevelopment of the site.

Skepper said the ACHRA was granted economic development powers several years ago. She said to date we have undertaken funding for planning a central business district in Columbus, feasibility study, financial analysis and legal analysis for central business district, preparation of work plan necessary to undertake project, business survey.

Skepper said we funded the MetroMSP which is a website aimed business interested in

locating in the Twin Cities. Each city is listed along with a contact person. The site receives more than 1,200 hits per month from different persons. This website is available for anyone to use. www.MetroMSP.org. She said you can enter parameters for a business that wants to locate in your community and can tailor the needs for that business and can find out if there are businesses like that in your area and if there are businesses to support that business in your area. Skepper said your City can enter any City owned property into the database and make it available to anyone.

Skepper said we are funding the Itasca Project. She said it is just getting underway, they have named a director. Skepper said this is thirteen county regional economic development organization which will provide a coordinated plan to promote the metro area. She said while the EDO is in the early stages, we anticipate publicity to begin soon with a branding effort as one of the first action steps.

Skepper explained that we participate in the 3M Championship Golf Tournament. She said we promote the resources in Anoka County, we have a tent at the championship with invitations sent to both the businesses within the county and those outside the county. Skepper said we hold events in the tent to promote economic development and we anticipate at least 4 special events this year. We have a business appreciation day where the cities are invited to attend and invite local businesses from their area. She said last year we had someone from the St. Paul Chamber talk about their site selector and we held a meeting for all the economic development staff in the state, it helped with networking opportunities, we made introductions and we find this to be a very useful event for economic development.

Skepper said Economic Development Authorities have many powers that have not yet been explored by cities. She said they include: facilitation of large scale development – linking developers and cities to assist in filling vacant buildings, industrial parks and undeveloped land, provide seed or venture capital to small businesses – establish revolving loan funds, serve as a limited partner in a project, retention of industry resulting in strengthening the community tax base and local economy, issuance of general obligation bonds or revenue bonds, acquisition, development and improvements to real property to make it suitable and available for economic development purposes, and operation of a public facility, including parking ramps.

Skepper said again, we are a reactive agency; we need a City Council to direct us to undertake activities. She said we can provide the see to venture capital to businesses; we acquire, develop and make improvements to property.

Skepper said she has a brief list of the funding the City of East Bethel has requested. You requested funding for planning of a City Center, planning for the development of senior housing, senior housing feasibility study, preliminary drawings for senior housing and City Center, planning for multi-family housing, financial analysis of projects, a sewer study, City Center and Town Center feasibility studies, planning and improvement of waste water in high growth areas, Comprehensive Plan update and planning/acquisition of real properties.

Moegerle said if we opt in, of course there would be a tax from Anoka County. Skepper said there is no additional tax; we are only able to levy one tax. Moegerle asked what is the process of opting in. Skepper said we need a resolution from Council. She said once the Council passes the resolution you are considered opted in. Moegerle asked how does that affect our local EDA. Skepper said you can still operate your local EDA.

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

Bud Flagstad of 3200 229th Avenue NE said he comes to you on behalf of friends and neighbors on behalf of the power line. He said he carried a petition around and didn't find one person that wanted the power line. Flagstad said it is the same story; I don't want it in my backyard. He said it is not a problem for him, but for some people if you put it on the residence side of the street they are going to lose their whole front yard. He said he lives off the road quite a ways. Flagstad said he feels bad for his neighbors. He said the right-of-way is going to get cleared to put it in, and we are going to lose all the trees to have this put in. DeRoche asked what route are you talking about. Flagstad said Route A. He said since they have an alternative route that is a better option since it doesn't affect East Bethel. Boyer said 38 feet is the right-of-way. He said they want to put it three feet off the city or county right-of-way and then 35 feet from there. Boyer said in fairness they don't clear cut that zone, but they don't want nothing bigger there than shrubs. Flagstad said the committee put together a good alternate route, he carried a petition and only about four people we didn't get signatures from, they weren't home, and maybe they don't live there anymore. He said he was told that once they put the 69 volt line in, it doesn't take much for them to put the 100 volt line in on the pole. Flagstad said it is going to lower the value of a lot of people's properties. He said since he can't make it to the public hearing; think about it as a pole in your front yard, would you want it.

Eldon Holmes of 2773 222nd Lane NE said it is very hard for him to come on Wednesday nights, he has other things going. He said he has information he collected and which he thinks is very important. Holmes said the first thing is on the agenda you have Public Forum and are limiting it to three minutes per person; he said under the Constitution of the United States, we have the freedom of speech. He said it was taken to court in 1972 and was upheld, you can speak as long as you want, this three minutes, two minutes, whatever you want to call it, is unconstitutional. He said just for your information and he thinks you took an oath to conform to the Constitution of the United States.

Holmes said next is the ordinances of the City. He said since the new people have taken offices on the City Council, he believes every meeting has been totally unlawful and he can't believe we have a City attorney that sits there and does nothing. He said the ordinances of the law of the City and the Minnesota Statute 600 backs that law, if you are breaking any ordinance you are breaking the law, it is unbelievable how many items you have been against the law for. Holmes said the city administrator was dismissed, illegally; the previous attorney was dismissed, illegally; the agenda items are illegal, the agenda can't be changed unless you have a motion and it clearly states that in Roberts Rules of Order. He said nobody is a master of Roberts Rules of Order, even me. Holmes said the ordinance states this. Moegerle said we go by the newly revised rules of order. Holmes said it still states the same thing. He said it has to be approved by 2/3rds of City Council and each change has to be done by separately by a motion. He said and you have to have discussion on the motion. Holmes said he has seen motions that have been made and not even acted on, this is insane. He said he talked to a couple other Mayors and they have seen some of this City Council that we have had lately and they can't believe it, it is frustrating. Moegerle asked the Mayor if he was going to enforce the three minute rule. Boyer said we have no three minute rule. Holmes said you are not going to enforce it on me. Lawrence asked Mr. Holmes to hold to the three minute limit. Holmes said he understands. Lawrence asked to finish. He said so others have a chance to talk. Lawrence said however, we have not ruled on it yet, so he will

let you continue until we make a ruling on it. He said there are many cities in the surrounding areas that do have a three minute rule. Holmes said they are against the Constitution of the United States, do you understand what I just said. Lawrence said so all these cities are against the constitution. Holmes said he doesn't care about those cities; he is concerned about the City of East Bethel. Lawrence said okay, we will have to take it under advisement with our attorney. Holmes said he is telling you this could be malfeasance of office.

Holmes said his other item is the city administrator (although see we have changed again), the water and everything else, think you ran on the basis that you were going to save money and now you want to change the website, that is going to cost money, not save money. He said you ran on something and don't adhere to it. Holmes said he doesn't think we want to talk about the city administrator that is a complete mess anyhow. He said if this continues he will look into calling the attorney general of the State of Minnesota, the City is looking like a bunch of bozos to other cities. Holmes said this can't continue, we are supposed to be upstanding citizens. He said Boyer has told you how to run this meeting and you ignore him, this is ridiculous. Holmes said this is not Nazi, Germany or Communist China. He said he has to leave, but he is telling you, he will be watching a lot closer, this is ridiculous, supposed to be human beings and grownups, this is like a little kid school, you guys have nothing on Barnum and Bailey. Lawrence said if you have complaints you really should file them with the city administrator, he would be happy to address them, if you have continued complaints.

Resident said she wants to welcome the new Council Members, they are very intelligent, they have not crawled out from under a rock. She said the old City Council people were doing something very illegal, it is very illegal to push an agenda when going to gain employment from it and gets lots of money. Resident said she found this out from one of the septic companies, inadvertently. She said charges should be pressed the old City Council the ones that got this all pushed forward, and it was certainly not in good faith that they did that after sever lawsuits were filed and just about two hours later they were making a motion they were going to get those bonds. Resident said and you know what, she doesn't understand, if you just got bonds a couple weeks ago and she was here at a meeting in January and heard the city administrator say the check was ready well that doesn't mean we have to go pick it up does it. She said and she has seen a couple things go down that are very illegal too. Resident said there are three houses down from her, five houses on her block. She said and he wanted variances think one was on the street side, never heard anything like that, but he waited until this little cabin became available on Coon Lake block grant on opposite side of the block, and these were supposed to go to a property to expand well and septic but no, no, he bought the place then he built a house and he sold them both. Resident said he made big money on the place because he had friends and distant relatives. She said and there is another place on Aspen and the old City Council approved, Uncle owned two lots, brother-in-law owned three lots and Uncle gave brother-in-law the two lots and we couldn't build a house on it because they wanted six lots, but I'll be damned someone built two houses on it. Resident said now we should have to put in City sewer and water because the houses are too close together, something is just not right. Moegerle said she has gone over the three minutes.

Resident asked has the Metro Council suggested a watershed plan for Central Avenue or the Coon Lake Beach area. Boyer said the Watershed Plans are based on watersheds not things like that. Resident said she knows but, obviously the old City Council pushed it and pushed it because someone wanted the money from employment. She said that wasn't right and

pushed through at the end of the year when they knew no one wanted it. Resident said she wanted to know if anyone got the petition that Coon Lake Beach gave to Mr. Sell at the Coon Lake Community Center. Lawrence said real quickly here, there is no plan for water and sewer at Coon Lake Beach right now. He said it is not in the plan right now. Lawrence said and we didn't get your name and address. Resident said Marsha Carson of 151 Maple Road. She said she was a little upset, listened to meeting from the 5th saw someone's wife and someone else was absolutely rude to you folks and know it is upsetting to lose a job, and some friends, and could see from the guy that was before me, but there is only one reason why so many people were removed and that is because the old City Council were doing illegal things and people were not liking it and people want honest people in here.

Carson said she has one more thing, the well over one Central, many years ago, a bunch of big industrial barrels of solvents and waste were dumped over there, and they were dumped in Andover and in Isanti. She said people were putting them in trucks and instead of paying the money if people lost them on the way to where they were taking them, it would save the companies a lot of money. Carson said so these people dumped them and the solvents are in people's backyards. She said there was one lady that had incinerator fires in her yard with her two year old. Carson said this was quite a while ago, and she is sure they have cleaned this up, but she was telling her husband, they might have just replace the top 10 inches of soil, so the further east you put the well the better off you will be.

Denise Lachinski of 22286 Vermillion Street NE asked Lieutenant Orlando to enlighten us about meth labs, is there generally just one, or is there a group of people. Lieutenant Orlando said the reason it has become so rare is because the pseudoephedrine has become so most of the meth that comes into this area is coming from Mexico, so it is very rare. She said ten years ago we would find things all over on the side of the road, gallon jugs, empty containers, etc. Lachinski asked is there anything we can look for such as an empty house, things in the ditch. Lieutenant Orlando said yes, lots of times there will be empty pop bottles, things that hold liquids in them. Boyer said but don't handle them. Lachinski said but that is the thing, it has been so long that kids probably think they can just throw that or shoot it with a bb gun. Lieutenant Orlando said if you see these kind of things just call 911 but it is so rare because most of the manufacturing is being done in Mexico.

Gordon Hoppe of 18530 Buchanan Street NE said he had his business in the City and sewer and water area, sold his building because of the cost of the sewer and water. He said he wants to buy another building in City for his business. He said he is going to apply for an IUP/CUP to run his business in the meantime out of his residence in the City so he can bring his equipment to his home and he hopes the Council takes this into consideration otherwise he will take his business to Oak Grove, Ham Lake or another city. Moegerle said we hope you stay.

Christine Howell of 22314 7th Street NE said she has three separate issues all deal with the same things, Castle Towers, the waste water treatment plant up there. She said after listening to the last meeting, hearing Voss say we were contractually obligated to pay that bill her curiosity was peaked so she started doing some digging. Howell said in 2004 we did a quick take and what was the purpose of that. She said usually when you do a quick take its through eminent domain which is not a positive thing for the one that's land is being taken. Howell said she knows we pay for it, but she wants to know what our reasoning was behind that, to begin with, how did all that start. Voss said that was before him, he was elected in 2004. Howell said she would like to find out how it started.

Boyer said first of all he voted against this. He said it started back in the 70's. Boyer said the City decided a TIF district was a wonderful thing and issued bonds for what is now Whispering Aspen and the trailer park. He said the developer sold off the property that became the trailer park. Boyer said and then the developer defaulted on the bond and took the money that they got on the sale of the trailer park. He said for years the City carried the 80 acres and for a long time all they could pay was the interest on the bond because it was taking 20% of the cities income until the early 90's when Council was finally was able to pay principal. Boyer said and in 2001, somewhere in there, he was on Council, they tried to start coming up with solutions like selling the property to get tax revenue. He was in opposition of the sale to Mundle because he didn't like the park provisions, they waived all park fees, we have to provide parks, and there were other things. Howell said all it showed in minutes in 2004 was Council Member Winegar kept asking how are we going to pay for this. Boyer said she voted for it.

Howell said in one of the minutes, where does Minards Lake fit in to this. Boyer said it is slightly to the west. Howell said the reason it is coming up is the waste water treatment plant and on April 1, 2004 the minute's state the hydrants went bad and Hunter said we knew there would be repairs, but on the upside we will be generating money for those repairs in a couple years. She said which brings her to her next point. Howell said this peaked her interest. She said sent an e-mail to all of you about the bonds and about the residents who cannot use Castle Towers water and sewer, how much are the residents that can't use it paying for the debt compared to the ones that are using it. Howell said and, Voss answered, she didn't expect and answer because it is so late in the game, but apparently the taxpayers are paying for it, \$109,000 from the general fund, where does the money come from for the general fund, the taxpayers correct. Voss said he answered her, that is correct. Howell said she didn't get that, but she did get the answer for how much will we pay in 2012 and you said it is too early to predict. She said but she had responded you should be able to predict going off of the hook-ups and that one she hasn't had a chance to check and you haven't probably had a chance to answer, which Mr. Davis brings you into the question, how many hook-ups, because if we don't have any hook-ups we will be paying \$159,000 in 2012. Davis said that is correct, unless there are hook-ups they only revenue we will have to apply to that is the special assessments. Howell asked and the special assessments, she thinks the payment is \$177,000 and the special assessments total \$18,000. Davis said that is correct. Howell asked how many hook-ups did we have in 2010. Davis said zero, he doesn't think we have had any since 2008. DeRoche said not since 2007. Howell said so chances are pretty good that taxpayers are going to pay \$159,000 for this next year. DeRoche said yes.

Howell said the reason she is asking is we have another water project starting, if you don't hook-up, you don't pay, is this how this other one started, because she is kind of paying and this is back in 2004 that Hunter said that and she doesn't use that sewer. Boyer said while he appreciates your analysis, he thinks you are missing one important item. He said the City was paying \$100's of thousands in interest every year for the bond default. Howell said she tried to get this. Boyer said in fairness, even though he never supported this, and still doesn't support this, this was a bad deal for the City from the beginning and to saddle anyone with it is kind of unfair. Howell said bad decisions happen and we paid 1.9 million for that one. Boyer said you were paying that already, this at least put an end date to it. He said this was ongoing for 20-25 years. Howell said so she is sleuthing away and she puts in the property ID to see who owns the property and it wouldn't come up, so she gets to the county and we don't even own the property anymore. Voss asked which property are you talking about. Howell said she got this from Pierce, a resolution, it looks like it is when they took you to court and you rescinded all the charges. Voss said he thinks you are talking

about Castle Towers. Boyer said we sold the property to Mundle. Voss said he assumes this is the Castle Towers property. Howell said apparently the City sold this property to Firebird. Voss asked why are you asking this in a Council meeting. He said you need to talk to staff about this, he said this in his e-mail. Howell said that was about the bonds. Voss said okay, he will be clear here. He said you are asking very detailed questions from long ago at a City Council meeting and taking up a ton of time right now. Davis said if you would like to meet with me, we can see what the issue is, he thinks that there were some PIN numbers that were changed so that might be why there is some confusion of who owns some property. Boyer said as part of the sewer system, the City bought some land that had the sewer system on it, and for expansion. Howell said she did ask for assistance, and Warren was trying, but she was busy and think she talked to Davis. Lawrence said if you would meet with Davis, think he could help you. Davis said we can meet at your convenience. Howell said she would love to. She said if it was sold and or we own it she wants to know if that money went back to the debt.

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

Consent
Agenda

Voss made motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, March 2, 2011 Regular Meeting; C) IUP Renewal/Home Occupation, 2110 Deerwood Lane – Terry Hartin; E) Resolution 2011-10 Recommending Approval of Gambling Premise Permit for CHOPS, Inc at Hunters Inn; F) Approve Advertisement of Bids for Fire Department Utility/Pickup Truck. Boyer seconded. Boyer said he would like to pull item D) Approve 2:00 AM License for Route 65 Pub & Grub to discuss separately because he has one simple question. **All in favor, motion carries.**

2:00 AM
License for
Pub & Grub

Boyer said he just wanted to know if we have had any noise complaints because the other bar that some of these people were involved in has some complaints. Lieutenant Orlando said she is not aware of complaints. Boyer asked Davis is he is aware of any complaints. He said no he is not aware of any complaints.

Voss made a motion to approve the 2:00 AM License for Route 65 Pub & Grub. DeRoche seconded; all in favor, motion carries.

IUP/Home
Occupation,
18333 Yancy
Street NE –
Stephen
VanKrevelen

Davis explained that VanKrevelen is requesting an IUP for a home occupation to allow a home-based computer repair and IT support business known as Anoka Computer Center, LLC. The purpose of the business is to provide affordable personal computer repair, IT, and maintenance services to private parties and small businesses in the area. VanKrevelen has stated that the majority of the work will be completed off-site; however, some clients may visit the site.

Computer equipment and e-waste recycling will not be an offered service. The small amount of waste generated by hardware replacement parts will be recycled by Asset Recovery Corporation in St. Paul. According to Anoka County Environmental Services, a hazardous waste license is not required for this type of business.

Home occupations are a permitted use in the R1- Single Family Residential District as long as VanKrevelen can meet the requirements of the City Code and complies with the conditions of the IUP. The proposed home occupation will meet requirements of the ordinance so long as the IUP conditions are met. In the event the conditions are not being met, the IUP would be revoked.

Planning Commission recommends approval to City Council for an IUP for a home occupation known as Anoka Computer Center, LLC, located at 18333 Yancy Street NE, Deer Path Farm, Lot 5, Block 4, PIN 34-33-23-32-0015, with the conditions as listed in the write-up.

Boyer made a motion to approve the request of Stephen VanKrevelen for an Interim Use Permit (IUP) for a business known as Anoka Computer Center, LLC to be located at 18333 Yancy Street NE, East Bethel, MN 55092 (PIN 34-33-23-32-0015) with the following conditions: 1) 1. Home Occupation shall meet the specific home occupation standards set forth in the City Code Appendix A Section 10-18: a. No more than three (3) persons, at least one (1) of whom shall reside within the principal dwelling, shall be employed by the Home Occupation, b) No traffic shall be generated by any home occupation in a significantly greater volume than would normally be expected from a single-family residence, c) Any sign associated with the home occupation shall be in compliance with the East Bethel City Code, Chapter 54. Signs, Home occupation signage must be no larger than two (2) square feet (City Code Chapter 54-4.3), d) The home occupation shall not generate hazardous waste unless a plan for off-site disposal of the waste is approved, e) A home occupation at a dwelling with an on-site sewage treatment system shall only generate normal domestic household waste unless a plan for off-site disposal of the waste is approved, f) The home occupation shall not constitute, create, or increase a nuisance to the criteria and standards established in this ordinance, g) There shall be no outdoor display or storage of goods, equipment, or materials for the home occupation, h) Parking needs generated by the home occupation shall be provided on-site, i) The area set aside for the home occupation in the principal structure shall not exceed 50 percent of the gross living area of the principal structure and the area set aside for the home occupation in the attached or detached accessory structures or garages shall not exceed total accessory structure space, j) No structural alterations or enlargements shall be made for the sole purpose of conducting the home occupation, k) There shall be no detriments to the residential character of the neighborhood due to the emission of noise, odor, smoke, dust, gas, heat, glare, vibration, electrical interference, traffic congestion, or any other nuisance resulting from the home occupation. 2) Violation of conditions and City Codes shall result in the revocation of the IUP; 3) All conditions must be met no later than April 16, 2011. An IUP Agreement shall be signed and executed no later than April 16, 2011. Failure to execute the IUP Agreement will result in the null and void of the IUP. DeRoche seconded. Voss asked is VanKrevelen aware of the commissions conditions. Davis said yes and he was notified of the meeting, but he couldn't attend. **All in favor, motion carries.**

- Park Comm. Minutes Davis explained that the February 9, 2011 Park Commission unapproved meeting minutes are provided for your review and information.
- Road Comm. Minutes Davis explained that the February 8, 2011 Road Commission unapproved meeting minutes are provided for your review and information.
- Booster East/Cedar Creek Trail Project Davis explained that with Option One, should the Council elect to proceed with this project the total cost would be \$440,545.04 or an additional \$359,958.89 over what has been spent to date. These costs would be paid from the City's MSA fund (\$300,434.52) and from the Trails Development Fund (\$140,110.52). There is currently \$124,189.40 in the Trails Development Fund and a transfer of \$29, 242 from the City Council is scheduled for July 2011 to this fund. This transfer would bring this account balance to \$153,431.40, which

would cover costs of this portion of the project and leave a balance of \$13,320.88 as of July 2011. The construction completion date of this project is scheduled for June 30, 2011.

Option Three, construction of the connection between Booster East Park and 224th Avenue as originally planned would provide for pedestrian access to Booster Park from the north and would eliminate the potential vacation of easements previously purchased from two property owners. Should the remaining portion of the trail be constructed in the future this section of the project

would be in place and its required easements secured. This alternative is shown as Attachment 2 and 3. If this option is selected the easements not necessary for this segment should be considered for vacation if the continuation of the trail to Cedar Creek at a future date is cancelled. The additional costs for this option are as follows:

1. Construction of 800 LF of 6' wide asphalt trail and fencing \$ 39,000
 2. Engineering \$ 2,500
 3. Vacation of 4 easements \$ 2,000
- Total \$ 43,500

Option four which as looked at earlier in the process, construct the connector trail between Booster East Park and 224th Avenue, add the connector trail on the City right of way between Xylite and Yancy Street and terminate the remainder of the project.

1. Construction of 800 LF of 6' wide asphalt trail and fencing \$ 39,000
 2. Construction of 1,000 LF of 6' wide asphalt trail(Xylite to Yancy) \$ 45,000
 3. Engineering \$ 2,500
 3. Vacation of 4 easements \$ 2,000
- Total \$ 88,500

This project was presented to the Parks Commission at the March 9, 2011 meeting and a letter was sent out to the residents who would be affected by it. The residents were overwhelmingly against the construction of Option # 4. The Parks Commission voted not to endorse Option #3 and selected Option #1 as their preferred choice for this project.

Option Two, should the City decide to terminate this project, the \$80,586.15 which was incurred prior to December 31, 2010, would be charged to funds designated to finance this project. In addition, the City has acquired and recorded 6 easements for the construction of this project. These easements were conditionally given by property owners and obligate the City to certain privacy and entrance improvements, tree removal and payment for two of the easements. Council should consider vacating the easements or retaining the easements and satisfying the terms under which they were given. The additional costs for this option are estimated as follows:

1. Engineering costs \$ 300
 2. Contractors bond costs \$5,400
 3. Vacation of 6 easements \$3,000
- Total \$8,700

Boyer said again, the Parks Commission and the City Council held a great number of hearings on this issue and the original option is the one that was preferred by the people. He said everyone north was opposed to the projected and everyone to the south was in favor of the project. Lawrence said when we had this meeting for this little L shaped trail; most of people there were opposed to it. He said there is a trail the kids have already built. A cow path, if we built this, the kids wouldn't use it. The neighbors were wildly against this. Boyer said why is he not surprised that is what we found last time. He said Patty Bass brought in a petition with signatures from 101 of her neighbors to the north that want option one. Voss

said he read the minutes and he appreciates the residents comments and he isn't overly surprised by it, but perhaps it should have been presented as if the alternative to not having the Xylite connection was not having a trail at all was how would they feel. He said that is how he thought he brought it up at the last meeting; if you are not going to get a trail would this help. Voss said it seemed to him Council was not interested at all, on building a trail at all. DeRoche said he is not opposed to having a trail on 224th to Booster Park. He said we already have the two easements and it could be built on in the future. Davis said that is correct. He said residents were concerned about security issues. Davis said one gentlemen just got an IUP for livestock and was concerned about that and maybe people coming into their backyard, things of that nature. Voss said he can appreciate that, if he had a trail going through his backyard, he would be concerned as well. He said it is a balance of priorities, does that neighborhood want a trail access to Booster Park. Lawrence said they have one already. Voss said but trails are not just for kids and this is not plowed in the winter. He said the cow path is right on the property line. Voss said would be a better spot for a trail.

Lawrence said his recommendation is option three; we would save MSA funds and could use them on roads. He said the reason we would do this is to keep from raising taxes, that MSA fund is tax money, taxpayers money statewide, trying to use it on roads, that we have to build in East Bethel and if we don't use those funds that we have to get the money out of the general fund to build the roads and we have 1.5 that we have to do. Davis said if you go by our Capital Improvement Plan, actually more than that, 2.7 million projected out in the next several years, we will borrowing out on the MSA funds to complete those projects.

Voss asked do we ever use general funds to complete MSA projects. Davis said not since he has been here, he doesn't know about before that. Jochum said you have done it in the past, LeTourneau did it for overlays. Voss said that was a long time ago. He said point he is trying to make is if it is an MSA route we use MSA funds. Voss said he doesn't want to put a misunderstanding out there that by using MSA funds on this project we will be using general funds on another project out there. Lawrence said with the state deficit can we rely on MSA funds. Voss said we will always have MSA funds; it is how we apply them with priorities. Davis said those can vary annually, if taken off Bataan it could be used to accelerate other projects. Lawrence said we have a road we want to construct, have new stop signs on 221st, have a service road going south on 65. Davis said the service road you are referring to will go from 221st to 215th to Teddy Bear Daycare. Lawrence said and that is an MSA street. Davis said yes, it is an MSA street. Voss said that is funded now. Davis said we have a MnDOT Cooperative Agreement and going to use \$600,000 of MSA dollars to fund that. Lawrence said we just want to make the best use of our MSA dollars. Voss said he agree, but the thing about saving taxes is incorrect. He said if we were using MSA dollars to fund this, however we were funding our Trail Capital fund, agree it is a priority. Lawrence said we need to look at our roads first. Boyer said the purpose of improving roads is to protect public. He said the purpose of building trails is exactly the same, so do what you like.

Moegerle made a motion to approve the trail for Booster/Cedar Creek Trail Option 3 as provided for in our packet on page 90 and 91. DeRoche seconded. Boyer, nay; DeRoche, aye; Lawrence, aye; Moegerle, aye; Voss, aye; motion carries.

RFPs for
Construction
Administration
for
Municipal

Davis explained that the next item is RFPs for Construction Administration for Municipal Services. He said attached is a draft Request for Proposals (RFP) for construction for the City's Utility Infrastructure Improvements. Due to the current project suspension, the RFP does not include the Water Treatment Facility at this time. As indicated in the RFP, Construction Services are being requested for:

Project 1 - Phase 1 Project 1 Utility Improvements and East Bethel Gravity Interceptor and Discharge

Project 2 - Construction of Municipal Well No. 1 and No. 2

Project 3 - Elevated Storage Tank

Per the agreement with MCES they must concur with the consultant that the City selects for Project 1. For that reason staff is recommending that the RFP be provided to only the firms that routinely work for MCES. The suggested list of consultants is: WSB, SEH, Bonestroo/Landform, TKDA, Barr Engineering, and Wenck. It has also been suggested that this be opened to anyone who wants to submit a proposal.

Voss said he is going to cut Davis off before he goes any further. **Voss made a motion to table the RFPs for Construction Administration for Municipal Services.** Voss said we had a meeting on Monday with Met Council, MnDOT, various engineers and staff and discussed the framework, the Mayor and I were at the meeting and there are a lot of changes that need to be made to what is in our packet, to the content and approach. Davis asked do you want to table all of it, or just the sewer portion. Voss said all of it, so many different, think we need to refine the discussions, with Met Council and piping, we talked about the wells, tower and whether we do it together or not. Moegerle said it is going to be three weeks until the next meeting on April 6th, are you asking city engineer to act in of the project manager, in that capacity for that extended time. Voss said that is what he is assigned to do. She asked how would you proceed if your motion succeeds. Voss said table to the next meeting but it is not out of question to provide a draft within that time. Jochum said more discussion was about opening to other consultants and what qualifies your firm to provide a proposal. Voss said there is language the Met Council would provide. Lawrence asked if Jochum has heard back from Met Council yet. Jochum said no, he hasn't heard back from them yet. He said we could have a draft fairly early next week. Voss said in the past, staff has sent out drafts for review, we have given comments, and then staff acts on it, and then put it on the next council meeting for action. Davis said that will give us ample time to review Met Council's comments or reevaluate the project if we so choose. **DeRoche seconded; all in favor, motion carries.**

Change Order
No. 1 –
Elevated
Storage Tank

Jochum explained that as you probably are aware the contract for the Elevated Storage Tank was awarded to Caldwell Tank, Inc. on December 1, 2010. Staff has notified the contractor that the temporary project suspension has been lifted. The contractor has requested 122 calendar days for substantial completion, 130 days for final completion. He said staff is recommending that Change Order No. 1 be considered and approved.

Voss asked why is Caldwell asking for substantially more time than the contract has been on suspension. Jochum said they weren't notified in writing until 2 weeks ago. Voss asked with this schedule does it affect anything in terms of implementation in the end, when is Met Council's plant ready to go online. Jochum said they have told us that don't worry about the treatment plant; as soon as you have the pipe in the ground they will be ready for business. Davis said the pipe is July 2012 and treatment plant is 2013. Jochum said in his opinion this is a substantial amount of steel and not asking for change in price.

Voss made a motion to approve Change Order #1 for Caldwell Tank, Inc. for a change of time, without a change of contract value. DeRoche seconded. Lawrence asked with correction to what we have in our packet. Voss said yes. **All in favor, motion carries.**

Pay Request –
Municipal

Jochum explained that Municipal Builders, Inc has made application for payment for the Water Treatment Facility Improvements. The major pay items for this pay request include

the bonds and insurance payments and soil testing work that has already been completed. The Pay Estimate includes payment for work completed to date minus a five percent retainage. The contractor is requesting a partial payment of \$63,574.00. A summary of the payment is as follows:

Total Work Completed to Date \$66,920.00
Less 5% Retainage \$ 3,346.00
Total payment \$63,574.00

Due to the current project suspension, staff has requested that the City Attorney review the payment. The City Attorney has indicated that the payment should be paid if the contractor acknowledges the following two items in a letter type agreement:

1. If this project was cancelled, any refund from the bonds would be credited back to the City.
2. The City is paying this under a reservation of all rights.

Jochum said that letter has been drafted by the City Attorney and MBI has signed it.

Staff recommends Council consider approval of Pay Estimate No. 1 in the amount of \$63,574.00 for the Water Treatment Facility Improvements with the condition that the contractor sign a letter agreement stating, 1) If this project is cancelled, any refunds from the bonds would be credited to the City and 2) The City is making this payment under a reservation of all rights.

Moegerle made a motion to approve Pay Estimate No. 1 to Municipal Builders, Inc. in the amount of \$63,574.00 for the Water Treatment Facility Improvements with the condition that the contractor sign a letter agreement stating, 1) If this project is cancelled, any refunds from the bonds would be credited to the City and 2) The City is making this payment under a reservation of all rights. Lawrence seconded; all in favor, motion carries.

Engineer –
Test Wells

Jochum said this came up after the agenda went out and is somewhat time sensitive. He said the test well was completed last Thursday. He said it was found that FIG formation was rarely thin. Jochum said on the upside there was a large seam of gravel above that and the City may be able to produce a well from that. He said we are recommending the pilot hole be drilled, but also recommending that if the sand and gravel layer is there in abundance that we also drill another test well in that layer. Jochum said since the hole will already be there the testing and pumping will be an additional cost of about \$10,300, this decision will have to be made probably early next week and that is why we are bringing it up tonight.

Voss asked can you briefly talk about net effect of the FIG being smaller. Jochum said in a sense it will likely produce less water and that isn't known until you open the hole and get water. He said it will likely get 250-300 gallons per minute. Jochum said he thinks he could get out of the sand and gravel layer another hole that would pump 500-600 gallons per minute. He said there is a good confining clay layer above would be good opportunity to have to have two separate wells in two separate aquifers, one in the FIG and one in the DRIFT. Boyer asked do we know about the water quality in the FIG. Jochum said no, not yet. Moegerle asked him to explain about the DRIFT well, what that means, where it is located. Jochum said essentially there was a seam of gravel, it would be logical to drill a residential well in first seam of gravel you find, most residential wells are in that, then next layer is clay layer, then below that is a gravel seam layer, then a nice rock layer, then the next layer is the FIG. He said the FIG is more like sandstone or looks like beach sand.

Voss said having 30-40 feet of clay above is important. Jochum said part of issue is DNR is

requiring a 7 day pump test to see if DRIFT well or Franconian well affects residential wells. He said they make you prove if you are going to affect something, if you prove you are going to affect something, they might let you go in Mount Simon. Lawrence asked which direction do they want to drill the next well. Jochum said either north or south. Lawrence asked which direction would you want to go. Jochum said he doesn't think it matters. Voss if we confirm the thickness of the DRIFT in either well does that confirm the capacity of the well. Jochum said yes, if we can confirm the well. Voss said is this basically the same thing twice, analysis, everything. Jochum said yes.

Voss made a motion to direct Traut Wells under Jochum's guidance to drill another test well, with the estimate cost of \$10,300, but only do if gravel layer is there. Moegerle seconded; all in favor, motion carries.

2010 Joint Powers Agreement (JPA) Street Maintenance Projects

Davis explained that the following projects were bid as part of the 2011 JPA Street Maintenance program. These projects have been identified in the 2011 Street Capital Improvement Plan (CIP) and recommended by the Roads Commission at their February 8, 2011 and March 8, 2011 meetings. The Roads Commission also recommended that the balance of \$72,861.54 between the project cost of \$288,138.46 and the project budget of \$361,000 be applied to seal coating additional streets under this years proposed work. The bids we got this year were surprisingly low. Don't have any reason with that, especially with what oil prices have done. The Roads Commission and his recommendation would be to fully fund this project. If you so concur we need to send in a letter of concurrence to the City of Coon Rapids indicating our participation in these projects in an amount of \$288,138.46 and up to \$361,000 if the additional seal coat work is approved.

Boyer made a motion to approve the 2010 JPA Street Maintenance Projects bids in an amount of \$288,138.46 and up to \$361,000 if additional work is approved and send a letter of concurrence to the City of Coon Rapids. Voss seconded. Voss asked are the additional projects identified yet. Davis said no, but he intends on bringing those back to you for your approval. He said he intended on starting on the 2012 projects and working his way down. Lawrence asked about the JPA. Davis explained this cities that join together and it enables us to collectively bid the street maintenance projects. He said there is a small administrative fee we pay Coon Rapids for this, 1.5%, for bidding and specs on this. Boyer said and we have saved at least 20% on this. All in favor, motion carries.

Code Enforcement Report

Davis explained that the code enforcement report of properties as posted unfit or hazardous is provided for your review and information. He said the next report will be updated and expanded a bit, the information here is dated a bit, and we will make sure it is more current.

Comprehensive Plan Review – Set Meeting Date

Davis explained that According to the 2008 East Bethel Comprehensive Plan, it will be reviewed on an annual basis to insure the plan remains as an effective development guide for East Bethel. As necessary, corrections may be made to deal with unforeseen circumstances.

To date, there has not been a review of the 2008 Comprehensive Plan. Staff suggests City Council set an evening work session in April to review the plan. Staff recommends City Council set an evening work session in April to review the 2008 Comprehensive Plan.

Voss said question he had is we had a work meeting to do this, January 19th. He said maybe his dates are wrong, but to conduct this review. Moegerle said we began to talk about this process then, but she met with the city planner about the process and she would like to do this in a more organized way, she has had some time to review some issues, and that is her

understanding of why there would be a second meeting, this would be a more formal process, but not sure it would be the final review. She said she is sure we will get more information as we get closer to the time.

Voss said with not knowing what we are going to do, he would suggest we do it on April 6th, before the Council meeting. Moegerle said maybe we should wait until after the Town Hall meeting, so we can get some suggestions from the residents. Voss said he doesn't even know what is the mechanism of the review. Moegerle said and Chapter 9 is silent on that. Voss said right, we put it in there; it just says it will be reviewed on an annual basis. Davis said maybe we can get more information on this, an outline of the issues that the city planner had and put this on the next council agenda. Voss said he doesn't want to set a meeting when he doesn't know what we are meeting for. Lawrence said so you are looking for direction from city planner. Davis said we will report back. Voss said we know there is nothing from Met Council that requires we do this.

Farmer's Market

Davis explained that Farmer's Markets are an exciting and fast-growing trend within America's food system. They promote healthy life styles, offer a venue for personal interactions between consumers and producers, and strengthen communities.

Current USDA statistics indicate that farmer's markets nationwide, is up 111%. Minnesota alone has well over 100 markets, a number that has doubled in the last five years. Consumer demands for local foods and benefits for producers from direct marketing their products are two factors contributing to this dramatic rise in numbers.

To get the market off to a positive start, it typically takes at least eight (8) months. With this in mind, the earliest a market could be part of the East Bethel community is spring 2012. Staff has acquired the Farmers' Market Manual for Minnesota, developed by the University of Minnesota Extension Service which will assist staff and City Council in the process of establishing a market. The manual provides information including starting the market, governance structure, retail locations, promoting/managing the market, etc. Staff also is networking with other communities that have successful markets such as Ramsey, Maple Grove, and White Bear Lake.

If the City Council decides to pursue a market, some questions that will need to be answered at some point include the following:

Where do you see the market located?

What size of market would you like to have?

What kind of market would you like to have?

What products would you like to sell at the market?

What activities, if any, beyond buying and selling would you like to see at the market?

What are your vision/goals for the market in three (3) years, five (5) years, ten (10) years?

A clear vision of a market will help design a market in a manner that best suits the needs of the community. In the near future, a work group may need to be established to assist in the process. The soonest a Farmer's Market might be established is Spring of 2012.

Boyer said he is all for this, but he will say this. He said when this was brought up two or three years ago, he undertook it to speak with the Goldeman's, at the time there were two farms that employ farmer's markets as their main fundraising the other was the alpaca. Voss said there is another one on Durant; he knows the family has been doing it for a long time. Boyer said both did not want to participate very much, because it is such a big part of their income, they were much more comfortable staying with their tried and true farmer's market.

Voss said what he was going to suggest is for us to contact them, and perhaps not so much not to have them as just a participant but for guidance also. Davis said that would be a logical first step to contact the local farmers markets for guidance and to get them involved. Boyer said also it would be good to look at doing this on a non-traditional day, like on Sunday. He asked doesn't White Bear have on Tuesdays. Davis said one has theirs on Wednesday, Thursday and Friday to capture traffic going home from work. Davis said one thing that is critical is location. Voss said the arena would be good it is on the east side. Davis said yes. Moegerle said and we have to have a minimum number of vendors to make it worthwhile, and where are we going to attract vendors from. Davis said he thinks you need to open up to anyone that wants to sell. Voss said have city planner take next step and keep us updated on each step. He said but also contact the current farmers markets. Voss said he will get you the other name, they sell flowers.

Fire Dept Reports

Davis explained that the February Fire Department reports are provided for your review and information.

Public Works Seasonal Employees

Davis explained that increased demands for road and park maintenance in the spring and through the summer has traditionally required hiring of seasonal personnel to support these activities. Increased work load during this time on projects in parks and on streets along with scheduled leave time for full time employees creates a situation where the seasonal workers provide additional manpower to assist in project and maintenance activities schedules.

During the upcoming spring and summer, there are labor intensive park projects scheduled for the installation of edging and mulch at seven parks and irrigation repairs and improvements at Booster West Park which will require City personnel and equipment for completion. The extra staffing will enable the Department to complete the projects as well as ensure adequate maintenance for existing parks. Road projects include crack sealing, seal coating, Class V resurfacing and patching/paving work on approximately eight miles of City streets. These projects are in addition to the normal maintenance activities that generally require significant staff time.

To complete the work scheduled, staff is requesting approval to hire three seasonal employees to work from mid-May through the end of August 2011. These seasonal employees would permit the normal park and street maintenance to proceed while the more experienced staff work in those construction activities that require additional experience. Seasonal employees would also be used for general labor and to back up the schedule when full time personnel are scheduled for vacation.

Funding for these positions in the amount of \$9,052 is provided for in the 2011 General Fund under the Parks Department budget and an additional \$12,244.82 in salary savings in this Department is available to fund these positions. First year seasonal employees are proposed to be paid \$10.00/hr. and seasonal employees with previous employment with the City would be paid \$11.00/hr. The total funds available for seasonal employees are \$21,296.82 and the projected cost for these positions is \$18,000.

Voss made a motion to approve three seasonal maintenance employees from mid May to August of 2011 for a project cost of \$18,000. Moegerle seconded; all in favor, motion carries.

Website Work

Davis explained the City of East Bethel Website has had the same "look and feel" since

2002. For many residents, businesses and visitors, this is one of the first looks they get at the City of East Bethel.

It is recommended that City form a Website Work Group consisting of three to five members. Council Member Moegerle has shown interest in serving on this work group, the deputy clerk and city planner would also like to be involved in this work group. The work group would be responsible for making recommendations to Council on the updating of the website, establishing a budget and draft a timeline for the project. Staff seeks Council direction to begin the process of forming a website work group. Davis said our website needs some upgrades. Voss said changes in the way websites are run. He said he would suggest we not restrict ourselves to staff and Council on this and that we would certainly have residents that have expertise, so open it up to one or two residents. Moegerle said get ideas to be vetted. Voss said for something like this, it is just people throwing ideas on a board. He said really it is the residents using it, find out what they want to see, and then pick a service to set it up. Moegerle said we are going to need photographs of East Bethel.

Appoint City
Clerk/
Treasurer

Davis explained that the attached is a response to our request for information from the League of Minnesota Cities (LMC) inquiring if the City can operate with a Deputy City Clerk and Deputy City Treasurer until a new City Administrator/Clerk/Treasurer is appointed later this year. According to the response from the LMC, the City of East Bethel needs to designate a person to be the Clerk/Treasurer. Operating with deputies is not advisable in their opinion. However, the Interim City Administrator or one of the deputies could be appointed to Acting or Interim Clerk/Treasurer. A Minnesota Statutory City, such as East Bethel, must have a named Clerk. Minnesota Statute 412.151 attached to write up response to our need to appoint a new city clerk. It is recommended that Council appoint the interim City Administrator as the Acting City Clerk/Treasurer.

Boyer asked why isn't Warren doing this. Davis said sometimes we need signatures and it would be easier this way, instead of having to look for someone. He said if you want that person to be the full time clerk you can go ahead and do this. Boyer asked why don't we have a clerk/treasurer. Vivian said if you have a combined clerk/treasurer position then you are required to have an annual audit, that would cost the City \$15,000 to \$20,000. Moegerle said we should make Davis the clerk/treasurer and then make up our mind on the ordinances. Voss said he would like input on the city administrator on how they want this run when we have a permanent administrator. Boyer said he does not want this to be part of the administrator duties. Voss said we already have a deputy city clerk and deputy city treasurer. Moegerle asked do we have to have the position of clerk/treasurer. Voss said it is a simple change of ordinance. Vivian said it is a question of what you want the structure to be. He said it is not clear of whether you wanted that to be his intent. Vivian said as you think about the issues, personnel structures, etc. Voss said it comes back to when we get this set in stone with the city administrator; different people are going to have different opinions on how they want this run. Boyer said he wants to know the duties.

Voss made a motion to appoint Jack Davis, interim city administrator, as clerk/treasurer. Boyer asked can we put a time limit on it. **Voss amended his motion to add: for 60 days starting April 1, 2011.** Voss said his intent is when we fill the position of city administrator we will know what we want to do with this. **Lawrence seconded; all in favor, motion carries.**

US Cable
PEG Fee

Davis explained that PEG stands for Public Education for Government. He said US Cable notified the City of East Bethel on Thursday, March 10, 2011 at 5:38 p.m. that per the cable

franchise agreement with the City that PEG fees had not been billed for the period of March 1, 2008 through March 1, 2011. As indicated in the attachment, US Cable through an accounting oversight has never implemented these charges. The PEG fees as shown in the attachment are to be used solely to fund the cable access channel. Based on 951 cable subscriptions, \$11,982.60 in PEG fees have not been collected by US Cable for distribution to the City during the period listed above. US Cable has proposed four options to remedy this problem:

- 1.) Amend the ordinance to delete the PEG fees. However, that won't support future equipment purchases or replacements for cable access equipment;
- 2.) Proceed with the scheduled fees as indicated in the attached schedule, forgiving the unbilled PEG fees through March 2011;
- 3.) Change the fee schedule to allow an additional sum of \$0.35 to be added for a three year period to the March 1, 2011 through February 29, 2016 schedule or other prorated amounts to recover the unbilled cost; or
- 4.) Change the fee schedule to a lower amount and use the 5% franchise fee to support the cable access program as necessary or if required.

Any change in fees or schedules would have to be 30 day noticed by US Cable to its customers.

Boyer said we had an attorney that handled this when we dealt with US Cable, they have not been straight forward with the City in the past, they owed the City a lot of money when they were audited in the past, so he would suggest that would be you run this by the attorney that handled this for us in the past and see what his recommendations might be. Moegerle said let her understand this, so we charge US Cable and they go ahead and pass it on to the customers, is that correct. Davis said US Cable passes it on to the customers and then they send us the money. Moegerle said so why do we care that they made the mistake. Davis said we don't care. Moegerle said then they should just pay us. Voss said that is what he said, where is option 5 where they pay what they owe us. Davis said he presented the options. Voss said pay us. Moegerle said show us the money. DeRoche asked what is the difference between this PEG fee and on his bill he has two franchise fees. Voss said PEG is a federal thing; they are required to do this to provide access, fee that passes on to cable subscribe so they can update equipment. Davis said it was set up so that if they would have billed their customers they would have billed 35 cents for the past 3 years for this fee.

DeRoche asked but why are there two franchise fees. Davis said the franchise fees are essentially saying you are using our right of way, and by using our right of way there is an inconvenience to us, so we are going to charge you, a fee for using their right of way. DeRoche asked if we have any idea of how long this contract goes. Davis said he thinks it is a 15 year contract. Voss said it was a long discussion, but the short of it is, the agreement was up, we wanted to look at other providers, federal law requires that whoever was providing it, they have right of refusing so what we ended up negotiating with them, we had to stick with them, but they re-wired the entire City and that is when we started getting broadband. He said we couldn't force them to do this, but they did. DeRoche said but they are adding things and taking them off, deluxe channels and separating them. Moegerle asked how frequently do we audit this and how did we miss that they hadn't paid us \$11,982. She said how do we deal with that. Voss asked how did this come up. Davis said US Cable notified us that they hadn't paid us. Voss said they must have done an audit. Davis said we will make a note of this and make sure it doesn't happen again on their part. He said we will send US Cable a letter asking for payment in full.

Moegerle asked should we be asking for interest on this amount, should our attorney be looking in to this. Vivian said having not looked at this, he can't tell you, but he presumes you don't have a provision in there that entitles you to interest so the most direct approach would be to respond and indicate the money is due and owed to the City and that the City expects the money is going to be paid. He said and he supposes the City has concerns about the impact on the residents about how this is going to be paid, but at the end of the day, they owe those funds and it is their issues. Voss said his concern is would be, to him they can't go back and try to collect the past two years from the users, they need to figure that out on their own. He said he expects they will add it on now.

DeRoche said there is a 40 cent charge that goes into affect they can't add it on to there, correct to try to make up their money. Voss said that is his point, they shouldn't over collect. DeRoche said so that is something that has to be monitored. Vivian said he thinks the reason they are coming to the City now, if you look at the e-mail Johnson provided attaching a page of franchise agreement; talks about fees they are allowed to pass onto consumer, agreement would not allow them to pass on fees not collected. He said so they are coming to you to say, we made a mistake, would you agree to amend this agreement. Vivian said so they are coming back to you and saying we made a mistake, will you agree to amend this portion of the agreement and the City has the authority to say absolutely not. Voss said he thinks this came about because they went to bump it up and found out it wasn't there, they weren't collecting it. Davis said he will direct a letter to US Cable.

Ordinance Updates

Davis said some ordinance changes/updates were brought to him by staff and one Council Member. He said one we just discussed the clerk/treasurer thing. Moegerle said the clerk/treasurer needs to be updated. She said and the city administrator ordinance is rather amusing because it makes reference to him and generally we wouldn't make reference to a gender and there are other ordinances that Vierling has made reference to that need to be updated and clarified.

Voss said if staff has identified issues that are clerical in the past they have brought it forward to Council and we generally have put it on the consent agenda. He said he is curious about Vierling going through the ordinances, reviewing them. Moegerle said this is relation to City business. She said he has said we have ordinances that are in violation of State Statute and so on and so forth and this is very concerning, so she is sure he has an independent list that has to be looked at as well. Lawrence said and we have a request to look at the ATV/four wheeler ordinance from the deputies. Voss said he also heard about the dog ordinance needing to be changed from a deputy, but those are things that staff needs to work on.

RFPs for Legal Services Update

Davis said he has an update to the RFPs for legal services. He said to date we have received three proposals. Vierling gave staff a list of 18 firms that serve municipal cities. We sent the RFP for Legal Services to those firms and to the 2 firms that currently serve the City. Staff has also had requests from 8 additional firms. That is a total of 28 RFPs that were mailed or e-mail to firms.

The City Council was to establish a committee consisting of two Council Members and the City Administrator to review the proposals received and then after review the committee schedule interviews as they deem appropriate. The committee would make a recommendation to Council from these interviews.

The anticipated schedule is as follows:

March 18, 2011 (3:00 p.m.) Deadline for receipts of RFP

March 25- April 15, 2011 Review proposals and make arrangements for interviews.

April 18-May 20, 2011 Interviews

May 25, 2011 Recommendation to City Council for appointment effective June 1, 2011

DeRoche asked wasn't committee set up to review these if we received more than 5 or 6, we had that intent. Boyer said we discussed if we had more than 5, then we would use the committee, but if less then we would review at Council. Voss said if there are only 5 we would all review them. Voss said we should have this as a discussion item at the April 6, 2011 meeting. Vivian said most firms will have meetings on Mondays and Tuesday, so if you are thinking about conducting interviews you should have them at the end of the week. Boyer said we don't want to have lead partner in the firm do the interview, we want the attorney here that will be attending the meetings. Voss said that is an argument to have the interview at the Council meeting so we know if they are available on Wednesdays.

Council
Member
Report -
Moegerle

Moegerle said she attended the Planning Commission meeting, met with the city planner, actually talked with all the department heads except the fire chief. She said she will be attending the Local Government Officials meeting and if anyone else is going to attend, we should have it posted. Moegerle said the Coon Lake Beach Community Center is having financial problems and if that property fails, it comes back to the City, so go eats lots of pancakes.

Council
Member
Report - Voss

Voss said he sees the county put up stop signs at 221st Avenue NE and Highway 65.

Voss said on the next agenda he would like to talk about the structure of public forum and the different ways of doing it. He said he would like to address the goals and objectives and what we want. Voss said we have to have this discussion. He asked if Davis could give us Brooklyn Park as one example. Davis said and we can poll 5 or 6 other cities. Moegerle said and she would like the City attorney to address Holmes questions. Voss said we don't have to have the public forum on the agenda. He said when he came on the Council the public forum was on the end of the agenda. Voss said only for the past couple months has it has been used for a way it which it shouldn't have been used. Boyer said he would like the City attorney to address the gentlemen that was sued for lewd comments.

Voss said as far as the Local Government Officials meeting, whether you post it or not, it is subject to the open meeting law. He said you can't have three elected officials there. Voss said if Council Members are going to attend the meeting, we have always talked about who is going to attend and we just don't have three members there. He said the other thing, the cost to attend is for dinner, it is not for the meeting and in the past, what Council Members have done in the past is some submitted and some didn't. He said maybe we need to clarify this policy wise. Voss said you can attend without attending the dinner.

Moegerle said she is aware of that, but part of the benefit is the social networking and getting to form joint powers agreements. She said she certainly understands it should not be abused and she is not going to get a free meal out of the City. Boyer said the only way to deal with this is not to charge the City for the dinner. He said he doesn't see why you want to set yourself up. Boyer said why are we even bringing it up, after the last meeting, what is done is done. Lawrence asked why would this be a violation of open meeting law if three attend. Voss said if it was a at social gathering it is one thing, but if you are going to get information it is different. Vivian said you need to be mindful of your responsibilities as Council Members to not discuss business or do business in any form or way. Voss said he

was always told that it is a violation if any information is presented. Vivian said they are situations where Council Members go to get an update from the League of MN Cities or on economic development where it is exempted. Voss said but there is a league decision on the league training. Boyer asked why are we spending time on this, why are we trying to skirt this. Voss said as long as there isn't three of you going, there then he thinks you are fine.

Council
Member
Report -
DeRoche

DeRoche asked about the Kim Thompson property what is to become of that. He said fire chief DuCharme was talking to him and he asked about this structure and he wants to use it as a demo burn. Schmidt said they were thinking about moving it. He said he is sure something could be arranged, they are not moving it off site. Boyer said they could sell salvage rights. DeRoche said on March 24th the fire department is going to have a recruitment at Coon Lake Beach, they need day firefighters.

DeRoche said and Lieutenant Orlando talked about the meth house, the fire chief told him he wanted Council to be aware that this is the first time that the state hazmat came out.

DeRoche said the fire chief also told him he has concerns about the roads at Castle Towers, it is tearing our trucks up. Voss said that is private property. Davis said we only have jurisdiction over the structures and people. DeRoche asked what happens about liability, in an ambulance this is not a smooth ride. Moegerle said it makes the response slower. Davis said he will check on some things, he will see if there is anything we can do.

DeRoche said our firefighters are getting trained to be EMTs because of our SafeAssure grant. He said this is really a good thing; we get a lot of medical calls.

Council
Report -
Boyer

Boyer said we got a letter from the State Auditor, can we put it on the City website. DeRoche said these are guidelines, suggestions. Moegerle said the second to the last sentence is the most pertinent. Boyer said he just wants it on the website.

Boyer said he sees the county did another fine patching job on 221st Avenue again. He asked can a staff member have a conversation with them about this; it looks like this just drove down the road and threw the tar out. DeRoche said not to interrupt, but he went to Oak Grove's meeting and talked to Andy Westerberg and he found out the numbers that were quoted at our last meeting actually should have been higher. He said but they are talking about putting up flashing lights, bumped up the project two years, the stop light project. Davis said we requested stop ahead lights, flashing lights and additional stop signs for this intersection from the county. He said we haven't heard back from Fisher. DeRoche said he had asked about rumble strips, but he heard they were too loud. Lawrence asked but the stop sign was paid for by county. Davis said that is correct.

Council
Report -
Lawrence

Lawrence said he talked to the gentlemen about the delinquent payment to the arena previously. He asked have we received payment. Davis said he will have to asked the finance department. He said he will get a report back to you. Lawrence said he knows they were struggling with funding. Voss said we are talking about the St. Francis Hockey Association, correct. Davis said that is correct.

Boyer made a motion to closed session pursuant to Attorney/Client privilege to discuss the litigation strategy regarding the ACHRA lawsuit A101628 City of East Bethel et al Anoka County HRA. Moegerle seconded; all in favor, motion carries.

Vivian said for the benefit of the record, Council will be adjourn to closed session to discuss

litigation strategy regarding the ACHRA lawsuit A101628 City of East Bethel et al Anoka County HRA. He said when we return, we will have a brief summary of any actions taken in that session.

Boyer made a motion to return to open session. DeRoche seconded; all in favor, motion carries.

Vivian said the Council concluded their closed session regarding the Anoka County HRA lawsuit. He said no formal actions were taken, no motions were made.

Adjourn

Boyer made a motion to adjourn at 10:50 PM. Voss seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk