

EAST BETHEL CITY COUNCIL MEETING

December 15, 2010

The East Bethel City Council met on December 15, 2010 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Steve Channer Greg Hunter
Kathy Paavola Steve Voss

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

Call to Order **The December 15, 2010 City Council meeting was called to order by Mayor Hunter at 7:30 PM.**

Adopt Agenda **Boyer made a motion to adopt the December 15, 2010 City Council Agenda with the addition of Item 8.0 D.6 Agency Agreement Sales Tax Refund and Item 8.0 G.2 Stipulation of Dismissal. Paavola seconded; all in favor, motion carries.**

Sheriff's Report Lieutenant Orlando reported on the custodial arrests/significant arrests for the month of November 2010 as follows:

11-03-10 - 5th Degree Domestic Assault - Deputies responded to a domestic assault. Upon arriving the wife advised that her husband had arrived home while she was sleeping. He then began to punch or hit her in the head two or three times. The wife sustained a small cut on her lip and a cut to her forehead. The husband was arrested and taken to jail.

11-11-10 - Possess Stolen Vehicle - Deputy observed a vehicle and ran the license plate. Upon receiving the information, the vehicle came back as stolen. The vehicle was no longer in the deputy's sight and he was unable to locate it. He relayed the information to other deputies. Two hours later, another deputy found fresh tracks in the area, leading to the back of a property. The deputy located the stolen vehicle and a male asleep inside of it. The male was taken to jail.

11-12-10 - Violate Order for Protection - Deputy received a report of a violation for an order for protection. The deputy was advised a male had called the female's daughter by phone. The male is not allowed to call the house. The male was taken into custody.

11-13-10 - 5th Degree Assault - Deputies were called to an assault that had occurred when a male had attempted to enter a business (both males are employees of the business). One male had a screwdriver, which he held up above his shoulder. The 2nd male had grabbed the male with the screwdriver by his arm and escorted him out of the business. The male with the screwdriver was charged with misdemeanor assault.

11-28-10 - Underage Alcohol Consumption / Possess Drug Paraphernalia - Foster mother reported a verbal domestic with her foster daughter after she returned home. The foster daughter had been drinking and smoking marijuana. Paraphernalia was located inside her bedroom, as was a bottle of vodka. The foster daughter was uncooperative with the

deputy. She was taken to Mercy to be checked, due to the alcohol and marijuana consumption. A blood test showed a BAC of .14. At Mercy she became very combative and was given sedatives. After several hours of sleeping, she was taken to Lino Lakes Juvenile Facility.

Lieutenant Orlando said domestic calls (non-crime) for the month were nineteen (19) and DWI arrests for this month were three (3).

Hunter asked do you know if the Sheriff's Department has had a deputy out on the snowmobile doing patrol yet. Lt. Orlando said one recreational deputy was out this weekend. She said but we don't have the funding yet. Sell said he knows he has been out. Lt. Orlando said the recreational deputy said he has found it easier to do the patrolling in a truck, but our part-time guy likes to do it on a snowmobile.

Lt. Orlando said she wanted to say it has been a pleasure working with Council Member Channer, Mayor Hunter and Council Member Paavola. Boyer asked her to pass along holiday wishes to the officers.

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

Consent Agenda **Boyer made a motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, December 1, 2010, Regular Meeting; C) Meeting Minutes, December 18, 2010, Town Hall Meeting; D) Mike Conner, 20582 Austin St. NE, Unique Dining Experience, IUP Renewal; F) Appointment of On Call Seasonal Snow Plow Driver; G) Approve Cigarette License Renewals; H) Approve Garbage Hauler Renewals; I) Resolution 2010-80 Designating Official Newspaper; J) Resolution 2010-81 Setting Meeting Dates for 2011; L) Resolution 2010-83 Re-establishing 4M Fund as a Depository; M) Resolution 2010-84 Inter-fund Loans; N) Resolution 2010-85 Tort Limits; R) Resolution 2010-88 Appointment of Responsible Authority; S) Booster/Cedar Creek Trail Easement – Roberts; T) Resolution 2010-89 Consenting to HRA Levy; U) Continuing Disclosure Agreement 2010 Utility Bond Issues; V) Resolution 2010-90 Accepting Donation; W) Resolution 2010-91 Accepting Work for Well No. 2 Construction, Well Pump, Piping and Electrical Revisions to Pumphouse No. 1; X) Resolution 2010-92 Accepting Work for Erskine Street, 200th Lane Overlay Project; Y) Resolution 2010-93 Accepting Work for Aberdeen Street Construction for Trunk Highway 65 Improvements; Z) Resolution 2010-94 Supporting Anoka-Champlin Meals on Wheels. Voss seconded.**

Hunter said he would like item **K) Resolution 2010-82 Establishing Bank Depositories**; pulled. He said he has a change to the minutes as follows: December 1, 2010 minutes: page 20, 3rd paragraph, middle, He said maybe you got you, should be *your*. Then on the November 18, 2010 minutes on page 36, very bottom five squad cares, change to *cars* and page 38 says Bryce Pickart a few times should be *Bill Cook*. Voss said also pull item **E) Mining Performance Agreement – Shaw Trucking; O) Resolution 2010-86 Transfer and Close HRA Utility Fund; P) Booster Park/Cedar Creek Trail Material Testing Quotes; Q) Resolution 2010-87 Amending the Flexible Benefit Plan. All in favor, motion carries.**

Item E – Mining Voss asked is the mining agreement for all the properties. Jochum said the mining agreement is not for the NW quadrant of Highway 65 and 22. Voss asked was it originally for all the

Performance Agreement – Shaw Trucking properties. Jochum said yes, but now there are separate owners and all the work is done on the NW quadrant. He said the mining agreement is for the property that Shaw Trucking owns.

Hunter made a motion to approve the Mining Performance Agreement for Shaw Trucking. Voss seconded; all in favor, motion carries.

Item K – Res. 2010-82 Bank Depositories Hunter said as far as Item K, Resolution 2010-82 Establishing Bank Depositories; he pulled it because he is not voting for Village Bank.

Voss made a motion to adopt Resolution 2010-82 Establishing Bank Depositories. Boyer seconded. Hunter, nay; Boyer, Channer, Paavola and Voss, aye; motion carries.

Item O – Res. 2010-86 Transfer and Close HRA Utility Fund Voss said he is a bit confused, what exactly is this, can you explain it. Sell said the City received a grant for HRA dollars for utility planning so we are closing the HRA Utility Fund and will be using funds from the bond proceeds to reimburse the City HRA fund. Voss said but those funds originally came from the County HRA fund. Sell said yes.

Boyer made a motion to adopt Resolution 2010-86 Transfer and Close HRA Utility Fund. Channer seconded; all in favor, motion carries.

Item P - Booster Park/Cedar Creek Trail Material Testing Quotes Sell explained that the City received three quotes for material testing services for Booster Park/Cedar Creek Trail. He said the city engineer is recommending City Council approve Northern Technologies proposal for material testing. Voss said he wanted this handled separately from the consent agenda.

Boyer made a motion to approve the proposal from Northern Technologies, Inc. in an amount not to exceed \$4,280 for material testing services for the proposed project. Hunter seconded. Channer and Voss, nay; Boyer, Hunter, Paavola, aye; motion carries.

Item Q - Res. 2010-87 Amending the Flexible Benefit Plan Voss said he wanted this explained in layman's terms as briefly as you can. Schutta said the plan has remained unchanged. She said we have to bring it up to IRS code. Schutta said we had Darcy Hitesman of Hitesman & Associates review it last year and there were a couple things that were no longer effective. She said and Hitesman also indicated that a small City Plan would be available for adoption this year, so we are adopting a small City Plan. Channer asked her to give an example of a change. Schutta said she didn't include the plan in the Council packet because it is 63 pages. She said the definition of dependent changed. Schutta said and employees can enroll in dependent care reimbursement and the original plan didn't address if employees were divorced. She said if they were filing separate taxes they could only claim \$2,500 instead of \$5,000.

Voss made a motion to approve Resolution 2010-87 Amending the Flexible Benefit Plan. Boyer seconded; all in favor, motion carries.

Planning Minutes Sell explained that the meeting minutes from the November 23, 2010 Planning Commission meeting are provided for your review and information.

Parks Comm. Minutes Sell explained that the meeting minutes from the November 10, 2010 Parks Commission meeting are provided for your review and information.

Booster/Cedar
Creek Trail
Bid Award

Sell explained that the Booster Park to Cedar Creek Trail Project includes the construction of a trail from Booster Park East to County Road 26 (229th Avenue). The trail begins at the Booster Park East Park pavilion. From there the trail continues north to 224th Avenue through a trail easement which was obtained from Timothy and Michelle Oney and Peter and Hafiza Aramalay. This segment of trail is 780 feet and consists of a 6 foot wide bituminous surface.

The trail then runs along the south side of 224th Avenue within the existing road right of way to Xylite Street. This segment of trail is 1,340 feet and consists of a 6 foot wide bituminous surface that is separated from the road.

From there the trail route continues south and east along to Xylite Street and 222nd Lane to Bataan Street. This segment of trail is 1,990 feet and consists of widening the pavement 3 feet on each side. This will allow a 4 foot wide striped trail adjacent to both sides of the road.

The final trail segment will run along the west side of Bataan Street from 222nd Lane to County Road 26 (229th Avenue). This segment of trail will be located in the existing road right of way. This segment of trail is 4,560 feet and consists of an 8 foot wide bituminous surface that is separated from the road.

Rum River Contracting, Inc. was the low bidder with a base bid of \$343,349.79. This contractor has worked in the City of East Bethel recently. Rum River Contracting completed the paving on the 2007 Klondike Drive project and were the general Contractor for the 2008-2010 Improvement Projects and constructed the Trunk Highway 65 Service Roads from 205th Avenue to 209th Avenue. Staff has verified submitted references for example projects, proposed project superintendents, project subcontractors, bank references, and bonding company references. Staff has received positive feedback from the reference sources regarding Rum River Contracting personnel, work and financial status.

As shown on the Bid Tabulation, the bids included a Base Bid and four Alternate Bids. The Base Bid includes a majority of the trail construction except the work noted below for the Alternate Bids.

Alternate Bid No. 1 provided for a retaining wall along Bataan Street only if the City was unable to obtain the easement along the property for G&M Roberts Trustees. This is the property in the southwest corner of Bataan Street and 229th Avenue. An easement has been obtained so the Alternate is unnecessary. Alternate Bid No. 2 includes the fencing along the Oney property/Booster East Park property line. This work is part of the easement agreement with Mr. Oney. Alternate Bids No. 3 and 4 include the fencing and trees along the Aramalay property east of the proposed trail north of Booster Park East. This work is part of the easement agreement with the Aramalay's. Based on the cost of the Alternates, staff recommends accepting the Base Bid only as Alternate #2, #3 and #4 can be accomplished at a much lower cost by maintenance staff than the bid price.

The cost breakdowns for each project using the Base Bid were summarized in your agenda materials.

This trail project is part of a larger project along Bataan Street. The street maintenance

project was bid in 2010 with the work being performed in 2011. The maintenance project will rejuvenate the Bataan Street surface. Rum River Contracting, Inc. was the low bidder on this maintenance project. All trail construction and maintenance work completed on Bataan Street will be financed from the state aid construction account.

The total estimated budget for this project was \$457,000. The total project cost as presented above is \$440,545.04. A total of \$140,110.52 will be financed from the City's Trail Capital Fund and \$300,434.52 will be financed from the City's Municipal State Aid Construction Account from Mn/DOT.

Staff is recommending approval of Resolution 2010-95 Awarding the Bid to Rum River Contracting in the amount of \$343,349.79 for the Booster Park to Cedar Creek Trail Project.

Boyer made a motion to adopt Resolution 2010-95 Awarding the Bid to Rum River Contracting in the amount of \$343,349.79 for the Booster Park to Cedar Creek Trail Project. Hunter seconded. Voss asked what is the current balance in park capital fund. Sell said about \$136,000. Voss asked is this without our current allocation. Sell said yes, without the 2011 allocation. Voss said and that is \$62,000. **Channer and Voss, nay; Boyer, Hunter and Paavola, aye; motion carries.**

Res. 2010-96
Awarding
Water
Treatment
Plant Bid

Sell explained that on October 6, 2010, the City Council approved plans and specifications for the construction of a water treatment facility as part of the municipal utilities project for Project 1 Phase One. The notice/advertisement for bids were in the Anoka Union and the Construction Bulletin. Bids were received on November 23, 2010 and tabulated. At the December 1, 2010 Council meeting, Resolution 2010-79 was adopted rejecting all bids, directing plans and specification modifications and rebid of the water treatment plant. The revised plans and specifications were advertised in the Finance and Commerce Daily with a new bid receipt date of December 13, 2010. Bids were received on December 13th and a tabulation of those bids was provided on December 14, 2010.

The engineers estimate for this part of the project was \$5,600,000.

Resolution 2010-96 provides for the award of the bid for construction of the Water Treatment Plant based on the competitive bids received on December 13, 2010. Low bid on the project is Municipal Builders, Inc. of Andover. This is the same company that constructed the new well at Whispering Aspen. The low bid was \$5,790,000.

Several Alternates were requested to include paving of the parking lot at the facility (\$33,500); brick veneer for the building (\$72,800); membrane roof (\$28,700) and upgrade generator (\$102,000). The engineer is recommending that all alternates be rejected and only the base bid be considered.

Staff seeks direction on the adoption of Resolution 2010-96 Awarding Construction Contract for Water Treatment Plant Construction to Municipal Builders, Inc in the amount of \$5,790,000.

Hunter made a motion to adopt Resolution 2010-96 Awarding Construction Contract for Water Treatment Plant Construction to Municipal Builders, Inc. in the amount of \$5,790,000. Boyer seconded. Voss asked the alternate bid for the parking lot was \$33,500 so how much would it cost if we did it afterwards, did it so it was not part of this contract.

Schmidt said additional costs would include more rock, grading, shaping, so he would guess it would add about \$5,000. He said it is not beyond the realm to do it at a later date as part of this project. Voss asked what is the project length. Schmidt said it is an eighteen (18) month build out and we anticipate starting in the spring. **All in favor, motion carries.**

Res. 2010-97
Awarding
Water and
Wastewater
Piping Bid

Sell explained that on October 6, 2010, the City Council approved plans and specifications for the construction of water and wastewater piping as part of the municipal utilities project for Project 1 Phase One. The notice/advertisement for bids were in the Anoka Union and the Construction Bulletin. Bids were received on December 10, 2010 and tabulated.

The engineers estimate for this part of the project was \$12,000,000 with a portion of this project cost to be reimbursed from MCES as part of the Cooperative Construction Agreement.

Resolution 2010-97 provides for the award of the bid for construction of the Municipal Utility Piping based on the competitive bids received on December 10, 2010.

Staff seeks direction on the adoption of Resolution 2010-97 Awarding Construction Contract for Municipal Utility Piping Construction to S.R. Weidema, Inc. in the amount \$11,686,468.30.

Sell said he received a letter from Met Council Environmental Services accepting the bid. Schmidt said Met Council's portion of the bill is \$7,143,442.18, 61% of this bid. Sell said how this works is we get a bill from the contractor and we submit it to Met Council and they will reimburse us. Schmidt said as part of project there is piling that has to be constructed; all the work is related to the interceptor. Schmidt said we had different designs and Met Council decided they wanted to go with Alternative C. Channer said he assumes this is in the swampy area. Hunter said it isn't the fact that is in a swamp, these are inconducive soils. Schmidt said yes, it has to be supported by a piping system.

Boyer made a motion to adopt Resolution 2010-97 Awarding the Construction Contract for Municipal Utility Piping Construction to S.R. Weidema, Inc. in the amount of \$11,686,468.30. Hunter seconded; all in favor, motion carries.

Agreement
Amendment
Bolton and
Menk Services

Sell explained that in June, 2008, the City entered into an agreement with Bolton and Menk, Inc. to provide engineering and planning services related to the City's municipal utility project. The agreement was in response to an RFP soliciting these services. This agreement only provided for project development and design related services and not construction phase and start-up related services which need to be added at this time. Over the past two and one-half years, the Bolton and Menk, Inc has provided the required services based on the agreement to include initial analysis of the project, development of the Facility Study, presentation at City Council, Public Hearings and other public meetings. The initial work included multiple analyses of alternatives applying the land use standards of the Comprehensive Plan, discussions with Metropolitan Council planning and demographic staff and waste water operations, engineers and finance staff. The initial work was to include multiple work group meetings, work processes and preliminary plans. Some of the work was not undertaken as the desired results were obtained from preparation of materials for, attendance at and presentations to City Council and residents at City Council meetings, Town Hall Meetings, Public Hearings and Special Meetings.

The initial agreement provided for the development of a feasibility report for Project 1 Phase One. This report was developed and presented at several City Council meetings as well as the Public Hearing on October 6, 2010. This report was the result of multiple analyses of growth, connections and development.

The original agreement provided for payment of \$482,785 for the basic services. However, the time frame and scope of these services changed over the past two and one-half years to include more activities, analyses, meetings, drawings, research, etc. than originally provided for in the original agreement. These additional costs total \$66,215 and are primarily related to the planning and design efforts for Phases II, III and IV as well as Phase IA. The data and information generated as a result of this additional work was necessary to ensure the appropriate placing, sizing and operational aspects of the infrastructure and will require less work on future Phases as much of the locating, sizing and operational impacts have been determined. The total cost of the initial planning, reporting and presentations is \$549,000. This entire amount is covered by the County HRA grant of \$642,000.

The Addendum #1 provides for changes to design services. Original design services were estimated at \$668,000. Actual will be \$795,000. These engineering service costs are provided for from bond proceeds. The additional costs are directly related to the siting of the wells, water tower and water treatment facility as the location changed from the original proposal when the church was less than responsive to the City's request to acquire property. In addition, additional shared costs with MCES are required for the support system to be deployed for the interceptor pipe and city water pipes in the areas where the soil conditions are marginal. Additional services of structural engineers are required for this portion of the project and several alternatives were required to minimize construction costs without compromising integrity. The additional cost for design is \$127,000.

The revised agreement will also add construction phase, start-up and project close-out related services. Construction services will entail all managing, observing, staking and recording the construction of the facilities to include wells, water tower, water treatment facility and necessary piping. In addition, initial facility start up is required entailing several months of training and operational assistance while project close-out relates to the record plan process and construction contract close-out process including the project punch list and warranty related items. Of this amount, the fees for the construction phase services are estimated to range from \$985,000 to \$1,035,000 while the start-up and project close-out related services are expected to range from \$100,000 to \$150,000. The not to exceed cost of these services is \$1,135,000, and have been provided for from bond proceeds.

In total, it is estimated that the engineering fees associated with this project from preliminary design through construction and start-up will be between 14.5% and 15.5% of construction costs. For a project of this complexity involving so many different types of facilities and engineering disciplines and services, this is well within the industry standard which is estimated to be between 16% and 18% indicating these services are a good value for the City.

The agreement also includes the addition of fees for MCES for work completed on their behalf as outlined in the Construction Cooperation Agreement dated November 12, 2010. All of these costs will be reimbursed to the City from MCES as they are invoiced to MCES by the City.

Addendum #1 increases the basic services by \$66,215; design services by \$127,000; and adds construction/start-up/close-out services for \$1,135,000.

Staff is asking for direction on the Addendum #1 to the Engineering Services Agreement with Bolton and Menk, Inc.

Voss made a motion to approve Addendum #1 to the Engineering Services Agreement with Bolton and Menk, Inc. Boyer seconded.

Voss said he has two items. He said he highlighted that they are holding their rates from the start of the project to the end of the project. Voss said and he had a question on page 154, Item G, Paragraph IV.K "Termination" is modified, what is the modification. Schmidt said he believe termination in the initial contract was 15 days and this got changed to 60 days. He said it would be hard to change with 15 days, there is a lot involved. Voss said so contract is good for 60 days. Schmidt said also the other part of this is MCES is also part of this, so they would need time to decide if they want us to continue working for them. Voss said he understands the need to have continuity. He said from his perspective he understands the need, but he feels this is kind of forcing the issue, but he doesn't want the project to stall. Schmidt said it increases the window and gives the City a minimum of time to work through time to address issues. Voss said the point he is making, is this is not a decision that is made on day one, and he is concerned about locking City into the 60 days. He asked if the City were able to make the transition in a shorter time frame such as 30 days, is this binding the City into paying Bolton and Menk for the 60 days. Schmidt said there would be ways of working through that, such as planning ahead of time. Voss said if MCES wants to pay your bills during the 60 days that is fine too. **All in favor, motion carries.**

Purchase
Agreement for
Shaw Trucking
Property

Sell explained that as part of the public utility project, several parcels of land are required to house the City's wells, water tower and water treatment facility. Two of these parcels are a portion of the Shaw Trucking property located on Viking Boulevard approximately one-half mile west of TH 65 and one quarter mile north of Viking Boulevard. (This is part of the old Decker Lumber property.)

The City has identified the two parcels that total approximately 5 acres and are suitable for the utility facilities including the wells, water tower and treatment plant. A map has been attached identifying the two parcels to be acquired, Attach #2.

In addition to the purchase of the property, the City will acquire an easement from the east line of the purchased property site to Viking Boulevard. This will permit the placement of utility lines to service the plant and other infrastructure. Again, this is identified on the map provided in your agenda materials, Attach #3.

The purchase price of the property and the easement is \$260,000. The land purchase is 4.84 acres and the easement is 1.531 acres. The total cost is approximately \$.92/square foot or slightly less than other recent property/easement purchases.

A copy of the proposed purchase agreement is included. The City Attorney has drafted the purchase agreement and has reviewed the final form. He has indicated that it is in order.

Staff is asking for direction to execute the purchase agreement with Shaw Trucking, Inc. for the purchase of property as described in Exhibit A to the Purchase Agreement and the

easement described in Exhibit A to the Purchase Agreement and direction to close the transaction in the amount of \$260,000.

Hunter asked is it \$250,000 or \$260,000. Sell said it is \$260,000.

Hunter made a motion to direct staff to execute the purchase agreement with Shaw Trucking, Inc. for the purchase of two parcels, approximately five (5) acres located on Viking Blvd. approximately one-half mile west of TH 65 and one quarter mile north of Viking Blvd., as described in Exhibit A to the Purchase Agreement and direction to close the transaction in the amount of \$260,000. Paavola seconded.

Voss asked on the drawing it is a 66 foot wide easement so this is just a utility easement. Sell said yes, it is a utility easement. He said the property owner will have to develop any road. Voss said without seeing how the property is laid out, he is assuming this makes sense for future for development. Schmidt said there are right of way issues along this property. He said but this does make sense with the natural topography. He said on Viking there will be access permits. Voss asked to the west of that easement is it still developable land. Schmidt said this runs along the low ground. Channer asked how close this is to Jackson Street. Schmidt said it is a quarter mile from the line. **All in favor, motion carries.**

Purchase Agreement for Kim Thompson Property

Sell explained that as part of the public utility project, several parcels of land are required to house the City’s wells, water tower and water treatment facility. This parcel is the entire Thompson property of five acres located on at the end of Taylor Street, one-quarter mile south of 197th Avenue. Approximately two acres is “high ground” with the remainder of the parcel being wetlands. There is a home and out building on the property.

The City has identified this parcel as suitable for the utility facilities including the wells, water tower and treatment plant. A map has been attached identifying the two parcels to be acquired, Attach #2.

The purchase price of the property is \$200,000 based on an appraisal. However, as there is an occupied residential homestead on the property, provisions of the Minnesota Uniform Relocation Act must be addressed. This includes payment for moving expenses; payment for any additional costs to replace the home with decent, safe and sanitary should the purchase price of the old home be less than the cost of a replacement home; replacement housing, incidental closing costs and mortgage interest rate differential costs.

Moving Costs

Ms. Thompson has received three estimates for moving from Berger, \$6,500.00; Barrett, \$6,694.00; and, Metcalf, \$6,673.00. Ms. Thompson has the option to select and the City is obligated to pay the lowest cost based on these estimates.

Replacement Home Cost

Ms. Thompson is entitled to and the City is obligated to pay any additional costs, over and above the sales price of the existing home, to replace the existing home with decent, safe and sanitary housing. The relocation specialist identified two properties in East Bethel that meet the requirements under the statute. Both replacement properties are in East Bethel and are currently on the market; 22858 Tippecanoe Street NE and 19372 Jamestown Street NE. Based on the assessor’s market value, \$245,700 and \$205,200 and listing prices of \$189,900 for each property, no additional payment is required to satisfy the statutory requirement as

both homes have a listing price of less than the price the City is paying for the property.

Replacement Housing Incidental Closing Costs

Mortgage Interest Rate Differential Costs

These two cost items are unknown at this time and will not be known until such time as Ms. Thompson has entered into a purchase agreement and closed on a replacement home. These costs include escrows for PMI, homeowners and property taxes as required by the new mortgage holder. The relocation specialist has estimated this final cost to be in a range of \$5,500 to \$15,500 depending when Ms. Thompson closes and the interest rates involved. Ms. Thompson has 18 months from the date of closing to enter into a purchase agreement for replacement housing and 24 months from the date of closing to submit a claim to the City. Ms. Thompson has indicated that she will likely wait at least 12 months before looking for replacement housing.

Interim Housing Costs

Ms. Thompson is entitled to interim housing costs in an amount negotiated by the buyer. Ms. Thompson has agreed to an interim housing cost of \$1,000 per month for a period not to exceed three months. This amount would be paid at closing.

Other Conditions

The City will allow Ms. Thompson to occupy the residence until March 31, 2011 under a separate rental agreement. Ms. Thompson will be required to make arrangements to have the propane tank pumped and removed prior to giving possession on March 31, 2011. Ms. Thompson will be allowed to remove the lock sets and security system she had recently installed. Ms. Thompson will remove the refrigerator, range, washer, dryer and water softener prior to giving possession. A copy of the proposed purchase agreement was included with your agenda materials. The City Attorney has drafted the purchase agreement and has reviewed the final form. He has indicated that it is in order.

Staff is asking for direction to execute the purchase agreement with Ms. Kimberly Thompson for the purchase of property as described in Exhibit A to the Purchase Agreement and direction to close the transaction in the amount of \$200,000, plus moving costs and interim housing costs.

Boyer made a motion to direct staff to execute the purchase agreement with Kimberly Thompson for the purchase of the entire Thompson property of five acres located at the end of Taylor Street, one quarter mile south of 197th Avenue (PIN 29 33 23 23 0005) and direction to close the transaction in the amount of \$200,000, plus moving costs and interim housing costs. Voss seconded.

Voss said he would like it put in the purchase agreement, however you want to do it, that when they vacate the property they have to give us notice. Randall said in the purchase agreement it states that they have to give us notice. Channer said he thinks you have to hand the keys over. He said he wants to thank Sell for navigating the Minnesota Uniform Relocation Act, he knows it is tough. Channer said but you did it right, it seems extravagant but you have to follow it. **All in favor, motion carries.**

Channer asked is the demolition going to be through the general or are we doing it separately. Sell said we are not sure that the house is going to be demoed yet, there is an individual that has shown an interest in moving the house. Voss asked will the individual be

acquiring it at no cost. Sell said probably, because it will be difficult to move.

Agency
Agreement
Sales Tax
Refund

Sell explained that Under Minnesota Statutes, the City is eligible to apply for a sales tax refund for sales taxes paid on equipment for the water treatment plant. This is permitted under M.S. 297A.68 and M.S. 297A.75. This refund is conditioned on several requirements that are outlined in Attachment #2. These are the rules governing this sales tax refund process.

The process requires several items to be eligible for a sales tax refund that includes the following:

1. An Agency Agreement with the Contractor performing the construction work.
2. Evidence of sales tax paid by the Contractor based on invoices from vendors from whom the Contractor has purchased equipment and paid sales tax on that equipment.
3. Submission of a claim for a sales tax refund to the Department of Revenue. The City can submit a request for refund no more than twice per year.

Based on preliminary estimates, this refund will range from \$125,000 to \$150,000. The contractor, Municipal Builders, Inc. has consented to the agency agreement and will provide the necessary services from their perspective for an amount equal to 5% of the sales tax refund the City receives. It is estimated that this fee will be less than \$10,000 over the term of the construction agreement. They will be required to provide all necessary documentation of sales taxes paid based on invoices paid to vendor's providing the equipment.

We verified that portions of the other construction projects are not eligible for this sales tax refund. They do not meet the requirements provided in statute. Specifically, they do not meet the processing, treatment and finished product for the water supply as they only provide raw water (wells), storage of finished water product (water tower) or transport of finished water product (piping).

Staff is asking direction to execute an Agency Agreement with Municipal Builder's Inc. for the purchase of equipment for the water treatment plant.

Voss said you have it in the write up what the fee will be for the contractor but he doesn't see it in the agreement. Sell said that will be in the contract.

Boyer made a motion to direct staff to execute an Agency Agreement with Municipal Builder's Inc. for the purchase of equipment for the water treatment plant. Voss seconded; all in favor, motion carries.

Sell said Ms. Pierce identified this based on her experience at the City of Anoka with utilities. He said this was a good catch that will save us money. Council thanked Pierce for her good work.

Code
Enforcement
Report

Sell explained that the Code Enforcement Report is included for your review and information.

Ord. 28,
Second Series,
Summary for

Sell explained that on December 1, 2010, City Council approved Ordinance 28, Second Series, An Ordinance Amending Appendix A, Zoning. It is required by statute to publish approved ordinances in the designated official newspaper. A copy of the summary was included in your agenda materials.

Staff seeks direction to publish the summary of Ordinance 28, Second Series in the City's official newspaper.

Boyer made a motion to adopt the Summary of Ordinance 28, Second Series, An Ordinance Amending Appendix A, Zoning and direction to publish in the official newspaper. Paavola seconded; all in favor, motion carries.

Hunter asked could this have been on the Consent Agenda. Sell said yes, it could have, and he will put these types of items on the Consent Agenda from now on.

City of East
Bethel
Administrative
Subdivision

Sell explained that East Bethel City Code Chapter 66, Subdivisions, allows lot boundary line adjustments where the division is to permit the adding of a parcel of land to an abutting lot. Administrative subdivisions do not require a public hearing; therefore, City Council is the only review body for the land use request.

The City of East Bethel is in the process of obtaining the 5.006 acre parcel owned by Ms. Thompson and 4.85 acres out of the 25.21 acres owned by Shaw Trucking. Once the City of East Bethel is in ownership of the lands, the combined area in ownership will be 9.847 acres. The site will be used for the placement of a water treatment facility, water towers and municipal wells.

Ms. Thompson's existing parcel is 5.0006 acres in size. The city is requesting an adjustment of Ms. Thompson's westerly and southwesterly property lines which would encompass 4.85 acres of Shaw Trucking's site as shown on attachment # 3. Attachment # 4 shows the entire new parcel of 9.847 acres to be owned by the City of East Bethel. The City of East Bethel will take ownership of these parcels of land no later than December 31, 2010.

East Bethel City Code, Appendix A, Zoning, states that newly subdivided lands located in the future municipal services area must be at a minimum of 10 acres. It is the City Attorney's opinion that the proposed parcel be treated as a 10 acre parcel since the .15 acre amount is de minimis.

The administrative subdivision meets the requirements set forth in city code and meets the policies adopted as part of the East Bethel Comprehensive Plan; therefore, staff suggests City Council consider approving the subdivision.

City Staff is recommending approval of the Administrative Subdivision that would allow a lot line adjustment for the properties at 19458 Taylor Street NE to include the Thompson and Shaw Trucking parcels. The parcel at 19458 Taylor Street NE will increase in size from 5.006 acres to 9.847 acres. The approval is contingent on the six conditions identified in six conditions identified in your agenda materials.

Voss made a motion to approve the Administrative Subdivision for the City of East Bethel to allow lot line adjustments for the properties at 19458 Taylor Street NE (PIN 29 33 23 23 0005) and the property known as Shaw Trucking (PIN 30 33 23 14 0006), East Bethel, MN. The parcel known as 19458 Taylor Street NE (PIN 29 33 23 23 0005) will increase in size from 5.006 acres to 9.847 acres with the following conditions: 1) City Council finds the parcel is of sufficient size under de minimis.; 2) City of East Bethel must take ownership of the parcels no later than December 31, 2011; 3) The

parcel will be used for the purpose of governmental essential services; 4) The City of East Bethel shall record the deed and survey at the Office of the County Registrar of Titles no later than 30 days after obtaining ownership; 5) Certification from the surveyor must be submitted stating that all lot corners have been set; 6) New property description must be reviewed and approved by City's Utility Project Engineer prior to the signing of the parcel deeds. Hunter seconded; all in favor, motion carries.

Fire Dept.
Minutes

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

Appoint Fire
Department
Officers

Sell explained that there are six officer positions with terms that will end on December 31, 2010. The Deputy Fire Chief Position, Station 2 District Fire Chief Position, one Lieutenant Position for Station 1 and one Lieutenant Position for Station 2 were posted along with Captain positions at Station 1 and Station 2. Interested firefighters were asked to submit a letter of intent, resume, and any pertinent certificates to the Fire Chief. Based on the selection process that included qualifications, experience and training, individuals were interviewed for these positions.

After review of the qualifications, experience, training and personal interviews with qualified individuals the following are recommended for appointment to include Deputy Fire Chief, Arden Anderson; Station # 1 Captain Mark Prachar; Station #1 Lieutenant Bill Hunt; Station # 2 District Fire Chief Dan Berry; Station #2 Captain Todd Bennett and Station #2 Lieutenant Rodney Sanow.

Staff is recommending appointment of these individuals to these positions. Appointment to these positions are considered ongoing until replaced.

Channer made a motion to appoint the following to the Fire Officers Positions as noted until replaced: Deputy Fire Chief Arden Anderson; Station # 1 Captain Mark Prachar; Station #1 Lieutenant Bill Hunt; Station # 2 District Fire Chief Dan Berry; Station #2 Captain Todd Bennett and Station #2 Lieutenant Rodney Sanow. Hunter seconded.

Boyer said he wants to thank all our fire fighters for their service. Channer said all of them are fine individuals. **All in favor, motion carries.**

Employment
Agreements

Sell explained that a proposed Employment Agreement between the City and the City Administrator has been included with this item. This agreement reduces to writing the basic verbal understanding between the parties. The Agreement provides for a wage freeze for the duration of the agreement at the 2009 level. Contributions for insurance and their treatment are consistent with the amounts provided to other employees that will decrease for 2011. Vacation, sick leave and other time off are consistent with practices and policies for other management/supervisory employees. The Agreement is for one year with a provision for re-negotiation for subsequent years. The agreement follows the form of a sample by the LMC. Modifications requested by Council to include Indemnification, Section 13, have been changed to statutory language. Litigation/Attorneys Fees, Section 12, have been changed to reflect Council request. And, Section 16, Attorney Representation, has been added pursuant to the City Attorney.

The second Agreement provides for all City Employees not currently covered by a labor agreement. This would include all managerial, supervisory and confidential employees. The provisions of this agreement following current practices and policies and is now reduced to writing. This type of agreement is common in a large number of cities, counties and

particularly school districts for managerial employees. The Agreements are for one year with a provision for re-negotiation for subsequent years.

The City Attorney reviewed the proposed agreements and has indicated there are no issues.

Staff is asking Council to consider approving these Employment Agreements.

Boyer made a motion to approve the Employment Agreements as outlined in our packets from pages 217-228. Hunter asked do you want to take them separate or all as one. Boyer said all as one. **Hunter seconded.**

Voss said he brought this up last time, on page 221 of packet under #2. Term (d) should say 90 *days* (city administrator agreement); it got changed on the other agreement. He asked also on page 221 of packet under #5. Health and Dental Insurance. The City will offer no health and dental insurance to or on behalf of City Administrator – what kind of savings is that to the City. Sell said he receives the same contribution to the cafeteria plan just like any other employee, he just doesn't take the insurance, and has to show proof of insurance somewhere else, but he still gets the cafeteria plan contribution. Voss said on page 222 under #11. Voluntary Resignation. In the event the City Administrator voluntarily resigns his position with the City, he shall give the City at least 60 days advance notice. The provisions of Section 2 (c) shall apply to any separation payments. Voss asked why we would pay severance with voluntary resignation. Sell said it should be **Section 8** not Section 2 (c), that is what was intended. He said with voluntary resignation there is no severance. Randall said that was an oversight. Voss said on page 222 at the bottom of the page it says the agreement should be retroactive to December 1, 2010. Randall said this is just a date; it was at the request of the City Administrator. Sell said no, not by me. Randall said then he doesn't know where it came from. He said we will change that, just delete it so it will read ***This Agreement will become effective on its date of adoption by the City Council.***

Voss said on the next agreements, for the City Employees, on page 224, he thought he heard you say these are both one year agreements but under #3. Term. The terms of the City Employees shall be from and after the date of the adoption of this Agreement by the City Council and continuing until December 31, 2012. Sell said it should read until ***December 31, 2011***. Randall said this was his error; he said he should have discussed this with the City Administrator, he had this on a draft of his and he was confused about what Council had asked for at the last meeting. Voss said and the next page 225, towards the bottom #4. Salary. Why is this all in here. He said it states that we are setting the salaries for the 2011 rate, but we already did that as part of the budget. Sell said and this was the basis for it. Voss said the basis for salaries was the budget we passed. He said to him this is all unnecessary and it says it is subject to a cap of 3%. Sell said we can edit it as follows: ***#4. Salary. The City agrees to pay City Employees for their services an amount identified in the City's Annual Pay Plan. (take out the rest of that paragraph.)*** Sell said but it doesn't explain how it is arrived at. Voss said this is two separate activities, a contract and salary is part of the budget. Voss on the next page, 226, #10. Voluntary Resignation. It refers to Section 26. Sell said that should be Section 8 again. ***Provisions of Section 8 shall apply to any separation payment(s).*** Voss asked and this adjusts the vacation and sick leave as discussed at the last meeting, correct. He said and this is a one year contract with six month severance for termination without cause. Sell said that is correct. He said and based on the City Attorney recommendation and at the last meeting it seemed that Council concurred, there will be separate agreements with each employee to be signed.

Boyer amended his motion to approve both the City Administrator Employment Agreement and the City Employee Agreements with the following amendments: City Administrator Employment Agreement: #2. Term. (d) Should say 90 days; #11. Voluntary Resignation. Section 8 shall apply to any separation payments; bottom of page 222, should read: This agreement will become effective on its date of adoption by the City Council; City Employee Agreements: #3. Term. Change to: December 31, 2011; #4. Salary. Change to: The City agrees to pay City Employees for their services an amount identified in the City's annual Pay Plan. (delete the rest of that paragraph); #10. Voluntary Resignation. Section 8 shall apply to any separation payments. Hunter seconded the motion as amended; all in favor, motion carries.

Randall said we will go over these provisions at staff meeting tomorrow morning and he will get a final draft out tomorrow or Friday morning.

Stipulation of Dismissal

Sell explained that the City was served with notice of a lawsuit on November 17, 2010 relating to the City's municipal utility project. The matter was referred to the City's insurance carrier, LMCIT, for defense. The LMCIT contracted with Mr. George Hoff to defend the City against the suit.

On December 14, 2010, Mr. Hoff received a signed Stipulation of Dismissal signed by the attorney representing the three individuals that filed the suit.

Mr. Hoff has recommended that City Council consider the Stipulation of Dismissal, direct Mr. Hoff to sign on the City's behalf and direct that Mr. Hoff file the Stipulation of Dismissal in District Court.

The Stipulation of Dismissal provides that the plaintiff's rights under Minnesota Statutes Chapter 429.081 are preserved if any project costs are specially assessed under this section of statute. These property owners will have the opportunity to object to the special assessments at the time the special assessments are levied, if any. Further, the Stipulation for Dismissal provides that the matter is dismissed with prejudice. This means that this suit cannot be reintroduced by the plaintiff's.

As noted above, Mr. Hoff is recommending the City Council approve the Stipulation of Dismissal and direct Mr. Hoff to sign the Stipulation of Dismissal on the City's behalf and direct that Mr. Hoff file the Stipulation of Dismissal in District Court

Sell said the League of Minnesota Cities Insurance Trust is highly recommending the City approve this.

Boyer made a motion to approve the Stipulation of Dismissal and direct Mr. Hoff to sign the Stipulation of Dismissal on the City's behalf and direct that Mr. Hoff file the Stipulation of Dismissal in District Court. Voss seconded. Channer asked did this cost us anything. Sell said no, we were covered by the LMCIT. **Hunter, nay; Boyer, Channer, Paavola and Voss, aye; motion carries.**

Great River Energy Work Group

Sell said the Great River Energy Work Group Meeting was held mostly in the dark. He said they set their next meeting for January 3, 2011. Sell said he believes they will formulate a recommendation to give to Council. Boyer said we have had a lot of alternatives from them.

He said we threw out three or four of 14 routes. Boyer said two of them ran down Viking Blvd. He said so now they are throwing the kitchen sink at us. Sell said he heard from the city planner that they had 400 some slides at the meeting. Boyer said yes and we will continue to go through them at the next meeting.

Voss asked do they know what the cause of the power outage was that night. Sell said some wires dropped. Channer said he got a call from Connexus. He said he thinks a transformer blew because we heard it. Sell said he doesn't know how far to the east it extended, but it was west almost to the Ponds in Oak Grove. Voss said it was over to Durant. Sell asked if they had power at Coon Lake. Paavola said yes, they didn't lose power. Hunter said he knows his neighbor to the east of him had power and he was out.

Booster Day
Committee

Sell said we will need to discuss Booster Day. He said the seniors want to pull back on some sponsorships and contributions and the City might have to form a non-profit corporation to run it. Sell said he had been advised by the State Auditor's office that the City cannot contribute tax dollars to run Booster Day. He said he is not sure what the seniors still want to do. Channer said he believes the seniors are willing to donate the funds they have in the account. Sell said in January we need to look at an umbrella organization, this is an important piece. He said he assumes that we will still have the Friday Night In The Park, but the Saturday activities need to be addressed. Paavola asked what day of the month do they meet. Ken Langmade said the last Wednesday of the month. Paavola asked who can we contact if we have questions. Langmade said you can contact Barb Kunshier or myself.

Paavola -
Goodbye

Paavola said this is my last meeting. She said it has been eight (8) years, but she will find something to do. Paavola said she has learned a lot, accomplished a lot, and met numerous wonderful people, this has just been really rewarding for her. She said she just wanted to thank everyone.

Years of
Service

Boyer said he wanted to thank the three of you, Mayor Hunter, Council Member Channer and Council Member Paavola, for your years of service to the City. He said he can't say how lucky the citizens have been to have your dedication and commitment to the City and he wanted to thank you.

Channer -
Goodbye

Channer said it has been quite the wild ride and it has been worth it. He said he thinks his family will be glad that he is taking time with them; it has been a little stressful for all of us. Channer said he wants to make sure he gets everyone, Tammy Schutta, Asst. City Administrator/HR Director; Rita Pierce, Fiscal and Support Services Director; Jack Davis, Public Works Director; Mark DuCharme, Fire Chief; Larry Martin, Chief Building Official; Stephanie Hanson, City Planner; Wendy, Deputy Clerk; and Doug, thank you. He said and Kenny Langmade he has made a new friend. Channer said it has been great, thank you all, and he is sure we will see each other.

Service as
Elected
Official

Voss said it is hard to imagine how much effort goes into this position. He said you will have a lot of free time now. Voss said it is one thing to serve as an elected official, but quite another thing to jump into the position. He said it is a lot of volunteered time. Voss said Mayor Hunter has a total of fourteen (14) years, plus serving on P & Z; Council Member Paavola has a total of eight (8) years and Council Member Channer, jumped into the position for a year. He said enjoy your retirement. Voss said he is assuming you all have applied for the openings on the commissions. Paavola said she has applied for a commission.

Hunter -
Goodbye

Hunter said he is humbled and honored to have had this position this long. He said it has its ups and downs, but it has mostly been ups. Hunter said there has been controversy and he believes

that has brought a lot of open discussions over the years, and lately from the residents and that is great. Hunter said Channer covered staff well, but he wants to add the fire department, we have a lot of great volunteers and we went from a good fire department to a great fire department. He said he hears the fire pager go off and the guys are out there and the gals. Channer said before you finish, and he wants to you to finish, he forgot this. Hunter said he knows you did, that is why he brought it up. Channer said the firemen took him in and begged him to join the Fire Department. He said Voss and I went to the appreciation dinner with our lovely brides. Channer said he told the firemen at the last meeting, there are a lot of good things you get to do and a lot of crappy things, and that was the one good things he got to do every month. Channer said it was absolutely the most fun he has ever had. Hunter said as far as staff you hit all the department heads but they have staff underneath them that do a wonderful job; you have a dream team here. He said we have a Rita that found \$150,000 and they do things like that all the time, but it doesn't get recognized. Hunter said but thanks most to Doug, you have been beat up, bashed, hung out to dry and it is all because of the position that we designed here for the administrator's position. He said he can't think of anybody that could have done a better job than you have in the past and in bringing all this together and making the City work as well as it has. You have actually brought this position, I was here before you, I know what it was like. Hunter said it wasn't fun, it wasn't fun at all and so he appreciates what Sell has done for this City.

Adjourn

Boyer made a motion to adjourn at 9:05 PM. Paavola seconded; all in favor, motion carries

Attest:

Wendy Warren
Deputy City Clerk