

## EAST BETHEL CITY COUNCIL MEETING

October 20, 2010

The East Bethel City Council met on October 20, 2010 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Steve Channer Greg Hunter (arrived at 7:45 PM)  
Kathy Paavola Steve Voss

ALSO PRESENT: Douglas Sell, City Administrator  
Tammy Schutta, Asst. City Administrator/HR Director  
Rita Pierce, Director of Fiscal and Support Services  
Jerry Randall, City Attorney  
Craig Jochum, City Engineer

Call to Order **The October 20, 2010 City Council meeting was called to order by Acting Mayor Voss at 7:30 PM.**

Adopt Agenda **Boyer made a motion to adopt the October 20, 2010 City Council Agenda. Paavola seconded; all in favor, motion carries.**

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

**09-11-10 - 5th Degree Domestic Assault** - Deputies responded to a family domestic. The mother reported that her adult son arrived home drunk and out of control. She reported that he hit her in the face and pushed her. He was arrested and taken to jail.

**09-28-10 - Felony Domestic Assault Strangulation / 5th Degree Domestic Assault** - Deputies responded to a family domestic where the father and adult son had been arguing and putting each other into "headlocks". The father had also run through a screen door, going after the mother, but no physical assault had occurred with her. The adult daughter had attempted to stop the father and had fallen striking a retaining wall. The father left the residence, prior to deputy arrival, but did agree to meet with deputies. The father and adult son were taken into custody.

**09-30-10 5th - Degree Domestic Assault** - Deputies responded to a husband/wife domestic. Upon arrival the female advised the male was intoxicated and being verbally abusive in front of their 2 year old child. She locked herself and the child into the bedroom, and the male kicked the door down. The male was arrested.

Lieutenant Orlando said domestic calls (non-crime) for the month were eighteen (18) and DWI arrests for this month were nine (9).

Potentially Dangerous Dog Hearing – Joan Havrish – 23408 Davenport St. NE  
Sell explained that Havrish, the animal owner, has requested a hearing as it relates to a dog bit incident on August 18, 2010. The Anoka County Sheriff's office reported a child was approached and bit by a Doberman at 23408 Davenport St NE. A copy of the sheriff's report was included with your agenda materials. The incident was unprovoked and was sufficient to issue a Potentially Dangerous Dog Notice pursuant to Chapter 10 of the City Code. A review of city records indicates that the dog is not currently licensed with the city.

On September 14, 2010, Havrish submitted a request for a hearing before Council. Pursuant to City Code, Section 10-72, the owner is to be granted a hearing before the City Council if

requested. The City Council, pursuant to Section 10-72, has several obligations and options regarding this matter. These were outlined in your agenda materials.

If, after a hearing under Section 10 – 72 the City Council finds that the dog is potentially dangerous, but does not order the destruction of the dog, the City Council must order one or more of the requirements for the keeping of the dog in the City as outlined in your agenda materials.

If the dog has been declared potentially dangerous, the owner is required to pay an annual registration fee to the City of \$250.00 in addition to any regular dog licensing fees and a reasonable fee to cover the City's administrative costs within 14 days of the declaration and again on or before the anniversary date of the declaration for the two year period. If the dog has been impounded, the fee must be paid prior to the dog's release.

City Staff is recommending that Havrish be allowed to address the Council on this matter. If Council determines that the animal is potentially dangerous, staff seeks direction on the sanctions to be imposed as outlined in your agenda materials.

Havrish said she wasn't home, she was up north on vacation but her boyfriend was there. She said her dogs were in for twelve (12) hours and when her boyfriend got home (by the way her dogs are licensed) the kids came running up, the mother stayed in the van. Havrish said the Doberman who is very loving and is not used to children running up the driveway nipped at one of the kids. She said her boyfriend asked if dog got them and they said not to worry about it and they continued selling tickets. Havrish said she is a rescue Doberman.

Voss asked how old the dog is. Havrish said she is four (4) and we have had her for two (2) years. She said we bring her to the Ice Arena for the shot clinic and everyone loves her. Havrish said the mother should have been with children in unknown neighborhood. She said my dog did not run in street. Havrish said the kids ran up and she was there in our yard.

Voss asked was anyone there to witness this. Havrish said yes, my boyfriend was, Tim Gove. Voss asked was he outside. Tim Gove said yes, he had just got home from work. He said there were kids on the street selling something for some St. Francis sport and he pulled in his driveway and opened door and let the dogs out and then he saw the kids running up. Gove said it wasn't a vicious thing, after his dog nipped the young man, he bought a ticket and they left and he found out about this two days later. He said all this information you said, it bothers him. Gove said everything the City Administrator was reading, it is totally misleading. Havrish said the first police report is misleading. She said the second report is more accurate. Voss said the report says the dog ran up to the kid. Havrish asked do you have both reports. Boyer said he doesn't see anything that makes him think that. Voss said the understanding he has from reading the report is the kids came on the property and the dog met them and bit. Havrish said they are licensed. Voss said and they should be licensed, it is a requirement of the City.

Channer asked if anyone else was present. Voss asked if there are any priors. Sell said no. Paavola said it is hard to say this animal is dangerous, she did nip but at same time the dogs were just let out for the day and they are a little excited when just let out for the day. She said and to have children just come running up on their property, she doesn't really know that this is really a case for the potentially dangerous dog issue. Voss said to him the issue is kids running up the driveway, someone is going to come up the driveway. He said he thinks also there is the fact that it says in the police report it was almost like the kid didn't know he was bit.

**Boyer made a motion to determine that the Doberman named Dolce owned by Joan**

**Havrish at 23408 Davenport St. NE be determined to be a potentially dangerous dog and requirements 1-8 be imposed but all items be stayed except item 2 as follows as long as there is no repeat offense in the next two years from this date: 2) That the owner post the front and the rear of the premises with clearly visible warning signs, including a warning symbol, a copy of which will be furnished by the City, to inform children, that there is a potentially dangerous dog on the property in the manner specified in Minnesota Statutes, Sec. 347.51 in the case of a dangerous dog. The owner must pay a reasonable fee to cover the cost of the warning symbol. Channer seconded; all in favor, motion carries.** Gove asked when this starts and do we have a little time to get these signs posted. Sell said the time starts tonight, and Mr. Martin will be contacting you about posting the signs.

Potentially Dangerous  
Doug Hearing  
– Adam  
Vigstol – 3651  
Edmar Lane  
NE

Sell explained that Vigstol, the animal owner, has requested a hearing as it relates to a dog bit incident on August 18, 2010. The Anoka County Sherriff’s office reported a child was approached and bit by a Yellow Labrador at 3642 Edmar Lane NE. A copy of the sheriff’s report was included with your agenda materials. The incident was unprovoked and was sufficient to issue a Potentially Dangerous Dog Notice pursuant to Chapter 10 of the City code. A review of city records indicates that the dog is not currently licensed with the city.

On September 28, 2010, Vigstol submitted a request for a hearing before Council. Pursuant to City Code, Section 10-72, the owner is to be granted a hearing before the City Council if requested. The City Council, pursuant to Section 10-72, has several obligations and options regarding this matter. These were outlined in your agenda materials.

If, after a hearing under Section 10-72 the City Council finds that the dog is potentially dangerous, but does not order the destruction of the dog, the City Council must order one or more of the requirements for the keeping of the dog in the City as outlined in your agenda materials.

If the dog that is declared potentially dangerous, the owner is required to pay an annual registration fee to the City of \$250.00 in addition to any regular dog licensing fees and a reasonable fee to cover the City’s administrative costs within 14 days of the declaration and again on or before the anniversary date of the declaration for the two year period. If the dog has been impounded, the fee must be paid prior to the dog’s release.

City Staff is recommending that Vigstol be allowed to address the Council on this matter. If Council determines that the animal is potentially dangerous, staff seeks direction on the sanctions to be imposed as outlined in your agenda materials.

Vigstol said his dog is just a puppy, he is a year old now. He said he has a statement from the neighbor, John Scheiderich who got scratched by his dog. Vigstol read the statement as follows: To Whom it May Concern: The dog in question was running free on August 18, 2010 and to protect it from traffic hazards I captured it and returned it to its owner and in the process it scratched me and I had to report it to Sheriff’s department because I didn’t know the history of the dog. The matter has been cleared up and is totally contained by its owner. I do not consider the dog to be aggressive or dangerous at this time.

Vigstol said he was at work and his girlfriend was at home. He said the dog got out. Vigstol said the sheriff report said the dog approached Scheiderich and bit him. He said according to him he approached the dog down by his dock and he tried to tie a rope around his collar and he scratched him and it did bruise him pretty good. Vigstol said he is a retired fire department guy and so he followed protocol and called the sheriff. He said when he found out that the dog was going to be declared potentially dangerous he wrote this letter.

Hunter said his biggest concern is your dog got out of yard. Vigstol said he has him on a chain now. He said we don't let him out without being out with him. Voss said dogs get loose, his own dogs get loose, it happens. He said he knows John personally and he can see him writing this letter. Voss said if someone tried to put a rope around my dog he would jump around too.

**Voss made a motion to not find the lab named Trip owned by Adam Vigstol at 3651 Edmar Lane NE as a potentially dangerous dog. Paavola seconded. Hunter and Channer, nay; Boyer, Paavola, Voss, aye; motion carries.**

Municipal  
Utilities -  
Resolution  
2010-61  
Accept Plans  
and  
Specifications  
for Project 1,  
Phase One

Sell explained that at the October 6, 2010 Council meeting, City Council directed that plans and specifications be prepared for the municipal utility project. The City's consulting engineer on this project, Bolton and Menk, Inc. has completed the plans and specifications for this project.

The project will be bid in four parts including one for the water storage facility, one for well construction, one for the water treatment plant and one for all the piping work. A copy of the plans were included with your agenda materials. Mr. Kreg Schmidt will be present to review the plans with Council.

Following review Mr. Schmidt will respond to questions you have regarding the project. Following the question and answer period, staff will ask for Council approval of the plans and specifications direction to solicit bids.

Staff is recommending approval of Resolution 2010-61 approving the plans and specifications and directing solicitation of bids.

Schmidt said as Sell mentioned we are here to entertain Resolution 2010-61 approving plans and specifications and directing solicitation of bids. He said ultimately there will be four contracts. Schmidt showed a drawing of the MCES Interceptor and Discharge Improvements. He said the water portion will include 22 fire hydrants. Schmidt said there will be discharge piping and interceptor piping. He said in addition to that there is 4 ½ mile of discharge piping. Schmidt showed a map of the street reconstruction. He said one change from the feasibility study is we are not going to reconstruct 187<sup>th</sup> Lane. He said water service will be north side of the street. Schmidt said in addition we have water improvements, ½ million gallon water tower and two wells. He said it is a 340 feet well depth. Schmidt said the wells have 500 gallons power per minute each.

Schmidt said the last component is the water tower. He said it is proposed as a 500,000 gallon water tower. Schmidt said there are eight 4 inch penetrations for future cellular transmissions.

Schmidt said if we move forward with this the bids would be due November 23, 2010. He said all four contracts would be bid. Schmidt said then we would probably bring the bids back to council on December 1, 2010 to award. He said this is a fairly long linear project. Schmidt said if we proceed in the winter, by August of 2012 all components will be operational.

Sell said he is handing out a revised resolution 2010-61. He said there is an additional whereas as follows: **WHEREAS**, the Metropolitan Council Environmental Services (MCES) has been provided a copy of these plans for review as they relate to interceptor and discharge piping.

Randall asked has Met Council approved the plans. Schmidt said they are reviewing them, but we don't expect any issues.

**Boyer made a motion to adopt Resolution 2010-61 Approving Plans and Specifications and Directing Bids be Solicited for Project 1 Phase One Utility Infrastructure Improvements.**

**Paavola seconded; all in favor, motion carries.**

Utility Project  
Funding –  
Resolution  
2010-58  
Authorizing  
Recovery Zone  
Economic  
Development  
(RZED) Bond  
Sale &  
Resolution  
2010-59  
Authorizing  
Build America  
Bonds (BAB)  
Sale and/or  
G.O. Utility  
Revenue  
Bonds

Sell explained that at the September 15, 2010 Council meeting, Council reviewed options for funding of the municipal utilities project, specifically for Project 1 Phase One. Mr. Paul Steinman of Springsted, Inc. presented several bond alternatives.

The \$11.465 million established for the water system will be Recovery Zone Economic Development (RZED) Bonds that afford the City a 45% interest rebate over the life of the bonds. Mr. Steinman has indicated that this, based on current tax-exempt and taxable interest rates with the rebate would be the best alternative. Resolution 2010-58 provides for the sale of these bonds.

Several alternatives for funding of the sewer portion of the project were presented. Council directed that the alternative that included Build America Bonds, or BAB's, should be explored as it presented the least costly alternative. These bonds provide for a 35% interest rebate from the U.S. Treasury over the life of the bonds. This would amount to a savings of about \$140,000 over the life of these bonds when compared to traditional tax-exempt debt for the same purpose.

Mr. Steinman is recommending that both the BAB debt be considered along with a traditional tax-exempt issue. This would permit the City to receive two bid proposals, one for the taxable BAB issue and one for the tax-exempt issue and then determine which is the most cost effective based on interest rates, rebates, etc. There is no additional cost to soliciting two separate bids for this bond issue as both would be noticed in the public sale notice. Council, on the date of sale, could select the bond issue that is the most cost effective at that time. Resolution 2010-59 provides for the solicitation and sale for both Build America Bonds and a traditional G.O. Utility Revenue Bond.

Mr. Steinman will review the options with Council for debt issuance alternatives for this project. Following the presentation and responses to Council questions, Mr. Steinman will ask for adoption of Resolution 2010-58 setting the sale parameters for the RZED bonds and Resolution 2010-59 setting the sale parameters for BAB or tax-exempt utility bonds.

Staff is recommending adoption of Resolution 2010-58 Setting Bond Sale for Recovery Zone Economic Development Bonds and Resolution 2010-59 Setting Bond Sale for Build America Bonds or G.O. Utility Bonds.

Steinman said good evening, tonight we have two (2) resolutions for your consideration. He said they establish the sale time and date for competitive offers of the bonds. Steinman said as part of the discussion tonight we have included in your packet the difference between 20 year and 25 year structures. He said the 25 year gives you a great deal of flexibility of structure.

Boyer asked him to summarize the cost differences between the 20 and 25 years. Steinman said certainly the 25 year has a higher cost but they both have a call on them at 10 years and if necessary it can be called. Channer asked the maturity date on February 1, is that interest, do the principal payments begin in 2016. Steinman said yes. Boyer asked we receive remunerations from Anoka County when. Sell said July and December.

**Boyer made a motion to adopt Resolution 2010-58 Setting Bond Sale for the Recovery Zone Economic Development Bonds in the amount of \$11,465,000. Hunter seconded; all in favor, motion carries.**

**Boyer made a motion to adopt Resolution 2010-59 Setting Bond Sale for Build America Bonds (BAB) or G.O. Utility Revenue Bonds in the amount of \$7,115,000. Paavola**

**seconded; all in favor, motion carries.**

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

Chris Vee of 745 225<sup>th</sup> Avenue NE said he is here like you told him to be at the candidate forum. He said he wants to talk about the driveway ordinance, and what he is asking Council for is to look at what you have written and maybe make some changes. Vee said he lives on a dirt road and he is putting in a second driveway to get to his pole barn. He said with what you have right now, he has to pave the driveway. Vee asked what sense it makes to pave a driveway on a dirt street. He asked can you put in some kind of option so residents have an option to pave now or when you pave the street. Vee said he will be glad to do it, but give him the option to do it when you pave the street.

Boyer said the ordinance makes sense to a degree. He said dirt roads get paved in this City sooner or later and if you sell your house then whoever buys it they have this bill staring them in the face for this concrete driveway. Hunter said he understands that, so maybe we make it contingent on that. Randall said he would suggest you make a contact with this gentlemen that he would pave this when he sells his property. Hunter said he thinks we need to look at the ordinance and change it. Vee said he just pulled the permit so he has a year. Channer said if we make him pave it now, the dirt road will ruin his driveway. Voss said when this was brought up he realized it is a flaw, it is our issue. He said his suggestion is we look at the ordinance and if it is on a dirt road we take out the requirement to pave it, it is not worth it. Sell said why don't you let staff take a run at modifying the ordinance and bring it back to you for consideration. Channer said also, one of the things that came up is this isn't being enforced evenly in some neighborhoods.

Michele Goldman said she does still not understand how the bonds affect her as a resident at Coon Lake. Sell said if the bonds don't sell not only us but other communities around the state would be in pretty rough shape. Hunter said the easy explanation is if the bonds don't sell the project doesn't go forward.

Jamie Hoffman of 1623 Viking Blvd. NE asked if City sewer and water come through, her question is at one of the meetings a while back you showed where the lines would go and it would virtually take out her septic system. She asked what would happen then to her when it comes through. Voss said who knows how long it will be before that will happen. Hoffman said it also will go right through her neighbor's house. Voss said you are safe for a while, quite a while. Hoffman asked how much will the assessment cost. Voss said for your property, zero. Hunter said when the project gets designed, then it will be discussed, but nothing right now.

There were no more 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, October 6, 2010, Regular Meeting; C) Resolution 2010-62 Declaring November Homelessness Awareness Month; D) Fire Fighter Termination; E) Resolution 2010-63 Setting Special Meeting Date to Canvass General Election Results; F) Resolution 2010-64 Declaring Surplus Property; G) Norlyn Farms Shoulder Work. Voss seconded; all in favor, motion carries.**

Planning Minutes Sell explained that the meeting minutes from the September 28, 2010 Planning Commission meeting are provided for your review and information.

Laurie & Tom Sell explained that it is typical that the responsible person to submit a land use application is the

October 20, 2010  
Weed –  
IUP/Farm  
Animals –  
22666 East  
Bethel Blvd.  
NE

property owner. In this particular case, as of August 25, 2010, the property is a bank-owned foreclosure by Chase Home Finance LLC. The applicants, Tom and Laurie Weed, are interested in residing within East Bethel and purchasing the property. However, the purchase of the property is contingent on an IUP for the keeping of five (5) alpacas they currently own.

The applicants must go through the proper legal avenues to purchase a foreclosed property, and there is some uncertainty as to how long this process will take. Based on the advice of the City Attorney conditional approval can be granted subject to a condition on the IUP stating that if the applicants do not take ownership of the property by April 1, 2011, the approved IUP is null and void.

East Bethel City Code Section 10, Article V. Farm Animals, requires that no animals that are regulated by the code can be kept on a parcel of land located within a platted subdivision or on any parcel of land of less than three (3) acres (130,680 square feet). The 40-acre parcel is not located within a platted subdivision. City Code has a limit on the number of animals per parcel. Five (5) alpacas require 5 grazable acres. The property contains approximately 7 acres of fenced grazable lands. There is shelter provided for the animals. City staff has conducted a site inspection. The property meets the requirements set forth in City Code for the keeping of farm animals.

Planning Commission recommends approval of an IUP for the keeping of five (5) alpacas for Tom and Laurie Weed, located at 22666 East Bethel Blvd, East Bethel subject to the conditions outlined in your agenda materials.

**Boyer made a motion to approve the request of Tom and Laurie Weed at 22666 East Bethel Blvd. NE (PIN 03-33-23-14-0004) for an Interim Use Permit (IUP) for the keeping of five (5) alpacas with the following conditions: 1) An Interim Permit must be signed and executed by the applicants and/or property owners and the City; 2) Applicants/property owners must comply with City Code Section 10, Article V, Farm Animals; 3) Permit shall expire when: a) The property is sold, or b) Non-compliance of IUP conditions; 4) Applicants/property owners shall have thirty (30) days to remove approved domestic farm animals upon expiration of IUP; 5) Property will be inspected and evaluated annually by City staff; 6) Applicants must provide proof of ownership or purchase will result in the null and void of the IUP; 7) Conditions of the IUP must be met no later than April 1, 2011. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP; 8) Applicants must provide proof of ownership no later than April 1, 2011 or the IUP will be null and void. Voss seconded; all in favor, motion carries.**

Adam  
Sheppard –  
IUP/Home  
Occupation  
Bakery –  
21984 Wake  
St. NE

Sell explained that Adam Sheppard is requesting an IUP for a bakery business known as *Designer Desserts*, located on a 2.01 acre parcel at 21984 Wake Street NE, East Bethel. The bakery business will provide specialty cakes such as wedding cakes, cartoon character cakes and large orders of gourmet cupcakes.

The plan is to construct a facility in the basement of the home. The facility will consist of one oven, a refrigerator/freezer, sink, and work surface. Bakery establishments are regulated and licensed through Minnesota Department of Agriculture. Sheppard is in the process of obtaining the required license(s). Sheppard is required to submit the required license(s) to city staff upon approval. In addition to the state license, Mr. Sheppard is required to obtain the proper building permit applications through the City of East Bethel Building Department.

Michelle Sheppard has made this her profession for the past 5 years. She is the only person who will be baking and decorating the baked goods. Ms. Sheppard does not intend to increase the number of employees. However, East Bethel City Code Appendix A, Zoning 10.18(A), allows

no more than three persons, at least one of whom shall reside within the home and shall be employed by the home occupation.

Most of the baked goods are delivered to the location by Sheppard. However, there may be instances when a customer may pick up from the site. East Bethel City Code Appendix A, Zoning 10.18(B) states that no traffic generated by the home occupation shall be a significantly greater volume than would normally be expected from a single-family residence. At this time, staff does not foresee an issue with a significant amount of traffic generated from this particular type of home occupation.

Planning Commission recommends approval for an IUP for a home occupation known as *Designer Desserts* located at 21984 Wake Street NE, East Bethel with the conditions noted in your agenda materials.

**Voss made a motion to approve the request of Adam Sheppard for an Interim Use Permit (IUP) for a Home Occupation for a bakery business known as “Designer Desserts” located at 21984 Wake St. NE (PIN 21984 Wake Street NE (PIN 11-33-23-12-0012) with the following conditions: 1) Home Occupation shall meet the specific standards for home occupation as permitted in East Bethel City Code, Appendix A, Zoning, Section 10.18; 2) There shall be no more than three (3) employees, 3) The IUP shall be for a term of three (3) years, expiring December 31, 2013, to which the applicant will be required to submit a land use application requesting a review and approval of home occupation; 4) Signage shall comply with East Bethel Sign Code, Chapter 54, Signs, which states home occupations may have one identification sign not to exceed two square feet; 5) Applicant shall submit a copy of the required; 6) Appropriate building permits from the City of East Bethel must be obtained prior to the construction of the facility in the basement of the home; 7) IUP Agreement must be executed no later than November 30, 2010 or the IUP will be null and void; 8) Violation of conditions and City Codes shall result in the revocation of the IUP.**

**Boyer seconded.** Voss said the only thing he is concerned about is the traffic. He said he would like to have the option to review in this in a year. Sheppard said this is a catering service. He said mostly he would be delivering his bakery items. Paavola asked about supplies about supply delivery, would he have most supplies delivered. He said no, he would pick up most of his supplies. **All in favor, motion carries.**

Parks Comm. Minutes Sell explained that the meeting minutes from the September 8, 2010 Parks Commission meeting are provided for your review and information.

Road Comm. Minutes Sell explained that the meeting minutes from the September 14, 2010 Roads Commission meeting are provided for your review and information.

Pay Est. No. 6 Municipal Builders for Well No. 2 Construction Sell explained that a copy of Pay Estimate No. 6 to Municipal Builders, Inc for the Well No. 2 Construction was included with your agenda materials. This Pay Estimate includes payment for all work required on the project minus a five percent retainage. The Contractor has submitted water analysis results from the new well. The well results indicated that the radium levels are below the allowable regulatory limits for Radium. The Department of Health completed their final inspection of the project on October 11, 2010. They did not have any issues with the project. The Department of Health also obtained a water sample during the final inspection which will be tested for Radium. Radium results take approximately four weeks to complete. The City will be notified of the results when they are completed.

The total project cost is estimated to be \$373,004. The city has received a grant in the amount \$298,403. The remaining \$74,601 is financed through the Public Facilities Authority’s Drinking Water Loan program over 20 years at a 1% interest rate. The loan payment will be repaid

through user fees. Staff recommends Council consider approval of Pay Estimate No. 6 in the amount of \$11,662.31 for Well No. 2 Construction

**Channer made a motion to approve Pay Estimate #6 to Municipal Builders, Inc. for Well No. 2 Construction, Well Pump, Piping and Electrical Revisions to Pumphouse No. 1.**

**Voss seconded.** Boyer asked why we aren't putting this on the consent agenda. Sell said we could put this on the consent agenda. He said the previous ones were on the regular agenda. Channer asked did we ever get it resolved about sending out the letter. Sell said he is working on a letter. Hunter said he understood when we came online that there were some issues with the water. He asked resident Ken Langmade about the water quality. Langmade said the water now is crystal clean. He said it was brown and actually turned some of his wives wash brown. Langmade said he called the Public Works Manager when this happened and he found out that they are going to be flushing once a month now because there isn't enough usage. He said when they are going to flush, it would be helpful if they would let everyone know a day ahead of time. Voss said they should put up a sign. He asked have we looked at all at changing the water chemistry. Jochum said one system that hasn't been operational is the polyphosphate system, we are going to get that on line. He said but as far as comparing the two streams they are very similar. **All in favor, motion carries.**

Settlement  
Agreement Fat  
Boys Bar and  
Grill & the  
City of East  
Bethel

Sell explained that In November of 2009, the owners of Fat Boys Bar and Grill had their permit to purchase suspended for failure to pay liquor sales taxes to the State of Minnesota. During this period of suspension of their privilege to purchase liquor and beer from licensed wholesalers in Minnesota, the owners of Fat Boys Bar and Grill purchased liquor and beer from other retail off-sale stores for re-sale at their bar.

As part of an enforcement operation, the Minnesota Alcohol and Gambling Enforcement Division of the Public Safety Department found that the owners of Fat Boys Bar and Grill had beer in their coolers that had a manufacture date after the date their permit to purchase was suspended. As a result, the owners of Fat Boys Bar and Grill admitted to the State that they purchased beer and liquor from retail off-sale stores for re-sale in their bar and paid a \$200 administrative penalty.

This violation of state statute constitutes a violation of City Liquor Ordinances. When asked whether the owners would prefer to settle this with a hearing before City Council or allow the matter to follow the court process as a criminal violation of a liquor statute and/or ordinance, they asked that the matter be allowed to process through the courts.

In June of this year, Fat Boys Bar and Grill was again added to the suspended permit to purchase list by the State for failure to pay liquor sales tax collected/owed. They were offered an opportunity to appear before City Council on this matter as the failure to pay taxes due and owing another government entity represented a violation of City ordinance and was basis for the City Council to take action against their liquor license. They requested a hearing. At the hearing on July 21, 2010, Parker stated they owed the State "couple thousand dollars." He went on to say that he "(Parker) said he paid February's taxes twice. He said when he paid his February taxes he accidentally paid it twice, so it tied up his money."

Upon investigation, the Department of Revenue stated that he did pay the February tax deposit twice. However, the matter was corrected in March by the Department of Revenue. The current tax delinquency was not related to the duplicate payment according to the Department of Revenue.

The matter was forwarded to the City's prosecuting attorney. Both Parker and Stewart had their initial court appearance in August and were scheduled for their second appearance in September.

Through their attorney, they asked if the matter could be settled without going through the court process. The prosecuting attorney asked and, I in turn asked Council their preference in moving forward with this matter. Council indicated it did not have a problem allowing the matter to move through the court system. Or, in the alternative, Council did not object to the drafting of a settlement agreement to be presented to the City Council for consideration.

A settlement agreement was drafted for consideration by the owners of Fat Boys. This document essentially followed the same settlement agreement they were offered in court. A copy of the proposed agreement is included with your agenda materials.

However, when asked to sign off and provide a signed copy to the City, the owner's balked saying that they now objected to several provisions of the settlement agreement. The signed agreement was due at City Hall no later than 20<sup>th</sup> such that it could be placed before Council on October 6<sup>th</sup>. They objected to a provision that states a violation of City Code, Chapter 26, Outdoor Entertainment Ordinance, would be sufficient to suspend the license. The rationale is that should there be a violation of the Outdoor Entertainment Ordinance while operating the bar would be an ordinance violation related to the operation of the bar including the liquor license. The second item was an objection to making the payment to the City of the administrative penalty in a timely manner. Apparently they do not object to this provision as they have not lined through this item on the settlement agreement they signed.

As noted, a copy of the agreement they signed is included with your agenda materials. Staff is seeking direction on the execution of the agreement between the City and Fat Boys Bar and Grill to settle the matter relating to a violation of State statute and City ordinance regarding the purchase of alcohol from a retail store for re-sale at Fat Boys Bar and Grill. Staff is seeking Council direction on the settlement agreement as proposed by Parker and Stewart.

Hunter said Parker called me and I gave him direction that if there was anything he disagreed with to line through it and put it back in our lap. Sell said they did strike through and 26, Article VII which is the Outdoor Entertainment Ordinance.

**Voss made a motion to approve the Settlement Agreement between Fat Boys Bar and Grill and the City of East Bethel as presented in the City Council packet. Hunter seconded. Boyer, nay; Channer, Hunter, Paavola and Voss, aye; motion carries.**

Code Enforcement Report

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

Wyatt 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 this land use request.

The request would allow the Wyatt's and Strandlund's to decrease or increase parcel sizes. The details of the Administrative Sub-division were included in your agenda materials and are best reflected on Attachment #3. Parcel C is owned by Mr. Gordon Wyatt and is 38.11 acres. The request would reduce this parcel to 22.29 acres. 2.99 acres would be added to Parcel B and 12.86 acres would be added to parcel A, the Strandlund parcel. With approval, Parcel B would increase to 5.01 acres and Parcel A would increase to 56.72 acres.

City Staff is requesting City Council to approve the Administrative Subdivision that would allow a lot line adjustment with conditions noted in your agenda materials.

Sell said there was a question today regarding combining or consolidating. Randall said to be on compliance with the ordinance they will have to combine to form no more than two (2) new parcels. He said they have complied with parcel B, but not for Mr. Strandlund's lot. Randall said that is a new parcel. He said his parcel has to become part of one of his existing parcels. Randall said we will want him to do a metes and bounds description connecting parcel A to one of his other parcels. He said he will have to have a surveyor write the description. Voss said he doesn't understand what is being split off. Randall said they are splitting to four (4) parcels. Voss said so what you are saying is parcel A needs to be redefined to create one parcel. Strandlund said he already has done that and it was given to staff.

**Boyer made a motion to approve the request of Gordon Wyatt, George Wyatt and Curt Strandlund for an administrative subdivision for a lot line adjustment for Parcel C (PIN 28-34-23-31-0001), Parcel B (PIN 28-34-23-31-0002) and Parcel A (PIN 28-34-23-42-0003). Parcel C will decreased from 38.11 acres to 22.29 acres, Parcel B will increase from 2.02 acres to 5.01 acres and Parcel A will increase from 43.86 acres to 56.72 acres. Approval is contingent on the following conditions: 1) The property owners shall record the deed and survey at the Office of the County Register of Titles no later than 90 days after the date of approval which is January 17, 2011. Failure to promptly record this transaction will void the administrative subdivision granted by the City Council; 2) The property owners shall submit one (1) digital electronic file of the lot line adjustment with Anoka County Coordinates, datum NAD83 (NAD 1983 Stateplane MN fips 2203 south) prior to the signing of the parcel deeds. This information will be obtained from E.G. Rud & Sons, Inc.; 3) The property owners are required to submit certification from the surveyor that all lot corners are set: Property monuments must be set no later than November 1, 2010. Should the property owners fail to set the monuments as required, the City will draw down on the escrow to have the work performed following a ten day written notice to the property owners. Should the property owners perform the within the time restraints noted, any remaining escrow shall be returned upon receipt of the final certificate of survey reflecting that all monuments have been set. This shall be completed prior to the signing of the parcel deeds; 4) Parcel A must be combined with Mr. Strandlund's existing parcel known as PIN 28-34-23-42-0003. New property description must be reviewed and approved by City Engineer prior to the signing of the parcel deeds; 5) A new survey must be submitted reflecting the following: a) Parcel A combine with the parcel to the east, b) Property descriptions, c) Survey to identify name, address and telephone number of all legal land owners; 6) All comments from City Staff, City Engineer, and City Attorney must be satisfactorily met prior to the signing of the parcel deeds. Voss seconded; all in favor, motion carries.**

Fire Dept.  
Minutes

Sell explained that the Fire Department reports are provided for your review and information. Hunter said this is nice. He said the reality is did the others get updated. Channer said he thinks the address then got in there. He said they have done this, so this is great. Channer said they know how important this is. Hunter said this is very important history.

City Hall Roof  
Repairs

Sell explained that the roof over the conference room and the back half of City Hall is more than 25 years old. As such, it has exceeded it useful life. And, there are a number of places where the roof leaks, have caused damage to ceiling tiles in this room and has stained the carpet.

Replacement of this roof segment was proposed as part of the remodel of City Hall in 2007. However, the cost exceeded the budget amounts available to expand City Hall and upgrade technology.

With the damage to the conference room, staff solicited quotes from several roofing contractors for the repair of this roof. Both contractors, after an on-site review, indicated that repairs would

not be an efficient corrective method. Replacement of the roof with PVC roofing materials would be the better alternative as it would provide for a membrane with a full warranty of 15 years to include repair and replacement of the roof and coverage for any consequential damages as a result of improper installation or material defects, as compared to EPDM or rubber roof which provides for a 10 year warranty labor and materials only.

The proposed membrane is a PVC material that is recognized as a superior product to the rubber roofing materials used over the past decades. It is flame retardant, UV ray resistant and meets all Factory Mutual Ratings. These ratings are the industry standard for this type of roofing products and assemblies. It is rated by Underwriters Laboratories as Class A material, the highest rating for flame retardant roofing materials.

The (PVC) installation is prefabricated one piece to the exact size of the structure. No on site seaming or welding is required. Work will be completed within four weeks of contract execution.

At the August 18, 2010 Council meeting, Council asked for quotes on replacement with a rubber roof material. Staff requested several quotes for this type of installation.

The proposals include:

**PVC Roofing Materials**

All Elements, Inc 1440 James Road Rogers, MN 55374	\$22,058.00	(Permit fees, not included in proposal, will be \$226.58)
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In-Motion, LLC P.O. Box 257 New Richmond, WI 54017	\$29,900.00	(Permit fees, not included in proposal, will be \$305.00)
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**Rubber Roofing Materials**

Berwald Roofing 2440 N Charles St. North St. Paul, MN 55109	\$29,967.00	(Permit fees, not included in the proposal, will be \$305.67)
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Walker Roofing 2274 Cap Rd. St. Paul, MN 55114	\$19,600.00	(Permit fees, not included in the proposal, will be \$202.00)
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**Gas piping remove/replace**

Vogel Sheetmetal 10864 Lansing Ave. N Stillwater, MN 55082	\$2,279.00	(Permit fees, not included in the proposal, will be \$55.00)
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Sowada & Barna Plumbing P.O. Box 188 East Bethel, MN 55011	\$2,955.00	(Permit fees, not included in the proposal, will be \$55.00)
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The City's Building Capital Fund has \$56,000 in available funding for these type projects.

Staff is seeking direction to proceed with award of the roofing replacement for City Hall to All Elements, Inc in an amount not to exceed \$22,284.58.

**Boyer made a motion to approve All Elements for the roofing replacement for City Hall not to exceed \$22,284.58. Paavola seconded.** Voss asked for clarification of why we are going with PVC over rubber. Sell said the substantial difference is the warranty alone is worth it. **All in favor, motion carries.**

**Voss made a motion to approve Vogel Sheetmetal for the gas piping remove and replace not to exceed \$2,279.00. Channer seconded; all in favor, motion carries.**

The  
Tinklenberg  
Group

Sell explained that in February 2010, the City of East Bethel and The Tinklenberg Group entered into a consulting services agreement. The tasks of the agreement focused on assisting the City in pursuit of federal funding for transportation and trail improvement projects.

The Tinklenberg Group drafted and submitted funding applications as part of the FY2011 Appropriations Bill to House and Senate congressional leadership. There is currently an allocation of \$250,000 for the corridor study on Congressman Franken's request list. Also, there is currently an allocation of \$250,000 for the corridor study and \$500,000 for the trail study on Senator Klobuchar's request list.

The current consulting services agreement was effect through August 31, 2010 with a total cost not to exceed was \$25,000, including expenses. As of August 31, 2010, the remaining allocated funds are \$2,773.51.

It is The Tinklenberg Group's belief that continuing to remain informed of various funding opportunities is critical to the City and that these efforts should remain ongoing.

The Tinklenberg Group has requested the City of East Bethel consider a contract amendment that would extend these activities through December 31, 2010, within the existing "not to exceed" amount. The Tinklenberg Group anticipates that timing of state applications will be known very soon, and the plan for addressing Reauthorization revealed more clearly as the mid-term elections near and concludes.

Staff is recommending City Council consider extending the contract agreement with The Tinklenberg Group through December 31, 2010, within the existing not to exceed amount of \$25,000.

**Boyer made a motion to extend the contract agreement with The Tinklenberg Group through December 31, 2010. Paavola seconded, all in favor, motion carries.**

Schoolhouse  
Building Move

Sell said tomorrow morning beginning at 9:00 AM the schoolhouse building will be moved. He said it will take about three hours. Boyer said he hopes they were going west on 226<sup>th</sup> to Palisade South. Channer asked the dimensions of the schoolhouse. Sell said 16 x 24.

Meet the  
Candidates

Paavola said we have a Meet the Candidates on Monday, October 25<sup>th</sup> at 7:00 PM at the Coon Lake Beach Community Center.

EB Royalty  
Spaghetti  
Dinner

Channer said he just wants to remind everyone again that the East Bethel Royalty has their Spaghetti dinner tomorrow night at the Ham Lake VFW from 5:00 PM to 8:30 PM. He said you can contact Doug at 763-434-3973 or go to their web site at [www.eastbethelroyalty.org](http://www.eastbethelroyalty.org).

Council Mtgs.  
Via Internet

Hunter said the only thing he had is at the meet the candidate we had a discussion about projecting the Council meetings live via the internet, is there a point, way, we could do that. Sell said the HR Director is working on this with the City of Roseville.

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

Attest:

Wendy Warren  
Deputy City Clerk