

## EAST BETHEL CITY COUNCIL MEETING

September 15, 2010

The East Bethel City Council met on September 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  
Rita Pierce, Director of Fiscal and Support Services  
Jerry Randall, City Attorney  
Craig Jochum, City Engineer

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

Adopt Agenda **Voss made a motion to adopt the September 15, 2010 City Council Agenda with the addition of agenda item 9.0 C Closed Session ACHRA Lawsuit. Boyer seconded; all in favor, motion carries.**

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

**08-01-10 - 5<sup>th</sup> Degree Domestic Assault** - Deputies responded to a boyfriend/girlfriend domestic. The male advised his girlfriend was crazy and drunk. The male was extremely intoxicated. The girlfriend, who was sober and rational, advised they had been arguing about his drinking and she was attempting to leave with their infant, when he attempted to restrain her. She had marks upon her arm and leg. An independent witness advised the male had chased the female outside and had been the aggressor. The male was taken into custody.

**08-07-10 - Criminal Vehicular Operation** - Deputies responded to a personal injury accident on Hwy 65, where a pick-up truck had rear-ended a van. The driver of the truck was under the influence of alcohol. Two occupants of the van were transported to the hospital, but later released with minor injuries. The driver of the truck submitted to a blood test to determine his alcohol level. Charges are pending.

**08-08-10 - 3<sup>rd</sup> Degree DUI / Property Damage Accident** - A male leaving a local establishment backed into a parked vehicle causing damage. The male was found to be under the influence of alcohol and failed field sobriety tests. The male was arrested and taken to jail.

**08-14-10 - Burglary / 2<sup>nd</sup> Degree Assault / Damage to Property** - A male advised a juvenile male had come over to his house with friends and broken into his home by breaking the sliding glass door. The suspect had wanted to fight the victim. The suspect entered the residence and grabbed a shotgun from a gun case, and went upstairs attempting to locate the victim. The victim had locked himself in his bedroom and called 911. The suspect pointed the shotgun at two other males and asked where the victim was. The suspect then dropped the shotgun and fled the residence where he was taken into custody.

**08-18-10 - Felony Theft** - A deputy observed a suspicious vehicle leaving a business at 0325 hours. The vehicle then pulled into another parking lot and turned off the lights. The deputy went to make contact with the vehicle and driver and a male took off running. A K9 officer was called into the area and a female was located hiding. The female advised she was with her friend and they were stealing items to make their rent payment. The female was arrested. The male was not located at the time.

**08-30-10 - Terroristic Threats / 5<sup>th</sup> Degree Domestic Assault** - Deputies were called to a domestic situation, where a male had gotten into a verbal argument with his adult step-son and had a handgun in his back pocket which he took out during the argument, but did not point at anyone. Prior to the verbal argument, the male had fired a round off through the upstairs window. The male was taken into custody.

Lieutenant Orlando said domestic calls (non-crime) for the month were twenty (20) and DWI arrests for this month were six (6).

Municipal  
Utilities –  
Feasibility  
Report

Sell explained that in the spring of 2009, City Council directed that a feasibility study be prepared for public utilities in the Project 1 Phase One area. This area is bounded on the south by 181<sup>st</sup> Avenue NE and on the north by Viking Boulevard, three-quarters of a mile either side of Trunk Highway 65. The report has been completed and was included with your agenda materials. Mr. Kreg Schmidt from Bolton and Menk will review the report with City Council and respond to your questions. Following the presentation and the questions and answer session, staff is recommending City Council accept the Feasibility Report for Project 1 Phase One for Municipal Utilities.

Kreg Schmidt from Bolton Menk introduced himself and said it is great to be here in East Bethel. He said in Council's packet is a report we have prepared. Schmidt said this report is called the Feasibility Study for Phase 1, Project 1 Utility Infrastructure Projects. He said we are not here tonight for a public hearing, but we are here to get acceptance by the Council of the feasibility report and for the approval of a resolution which sets the public hearing date for Project 1, Phase 1.

Hunter said that is correct, we are not holding the public hearing tonight, but he has asked Schmidt to say after his presentation and to take questions after the meeting. He said Schmidt will go out in the hallway and anyone interested can go out there and ask him any questions they have that are appropriate about the City sewer and water in the Phase 1, Project 1 area. Schmidt said this project location is the generally 185<sup>th</sup> Avenue to Viking Boulevard, ¼ to ½ mile west of Trunk Highway 65 as described in the facility plan. He showed map of general location, highlighted in red. Schmidt said where this fits in the urban service area is all areas encompass urbanized areas that will be in East Bethel. He said all phases are long term phases that have been identified by the City. Schmidt said the Coon Lake Area is an independent area, and if and when it comes up for discussion, that will be a different time, it is not part of tonight's discussion.

Schmidt said the sanitary sewer system includes components funded by both the City and Metropolitan Council Environmental Services (MCES). He said the map shows the overall project area. He said East Bethel will fund the trunk sanitary sewer and lateral sanitary sewer lines. MCES will fund the Waste Water Reclamation Facility (WWRF), Interceptor Sewer and WWRF Discharge Piping and Rapid Infiltration Basins (RIBs). Schmidt said the Sanitary Sewer Components for the WWRF are providing tertiary treatment to waste water,

effluent near drinking water standards, and discharge to drainage basin via rapid infiltration basins (RIBs). He said ultimately the discharge water will be used for irrigation and beneficial non-potable uses (but that is a long way down the road), will be constructed, owned, operated and funded by MCES and the estimated project cost is \$10 to \$15 million.

Schmidt said the WWRF will ultimately serve portions of East Bethel, Oak Grove, Ham Lake and Andover. MCES will recover their costs from contributing users by charging Sewer Availability Charges (SAC) which will range from \$3400 to \$3500/ERU (these are estimated) and in addition to that user fees will be charged which is estimated at \$1.98 kgal. Schmidt said future expansion will be required as demand warrants.

Schmidt explained that the WWRF Discharge Piping and RIBs conveys treated effluent from the WWRF to RIBs and ultimate re-use system. They will be owned, operated and fund by the MCES. He said the MCES's cost will be recaptured from contributing users by SAC and user charges. Schmidt said future RIBs and discharge piping will be required with WWRF expansions. He said the estimated MCES project cost is \$5-\$7 million.

Schmidt explained that the Sanitary Sewer System Components are the interceptor sewer which collects and conveys flow from contributing areas to the WWRF which is owned, operated and funded by MCES. MCES estimated project cost is \$5,100,000. He said MCES estimated East Bethel's trunk sewer benefit (cost share) at \$2,200,000. Schmidt said that MCES costs will be recaptured from contributing users by SAC and user charge.

Schmidt explained that the Sanitary Sewer System Components of the Trunk Sanitary Sewer conveys flows from multiple service areas or neighborhoods and adjacent parcels to interceptors which will be owned, operated and funded by the City. He said the cost will be recaptured from contributing users by assessments, lateral benefit, trunk and user charges. Schmidt said the total estimated trunk sewer project cost including the interceptor cost share is \$3,528,651.

Schmidt said the Sanitary Sewer System Components of the Lateral Sanitary Sewer are it conveys flows from the individual or smaller areas or neighborhoods to interceptor or trunk sewers. He said these are generally eight (8) inch sewers that are owned, operated and funded by the City. Schmidt said the cost is recaptured from contributing users by assessments and user charges. He said the total estimated lateral sewer project cost is \$976,361.

Schmidt said let's move on to the Water System. He said the proposed water system includes several components funded by the City such as production wells, water treatment facility (WTF), water tower, trunk watermain and lateral watermain. Schmidt said we are basically starting from scratch.

Schmidt said for the Water System Components, the production wells, the available sources are the Drift which is susceptible to contamination from high ground water and sand soil, then below that is the Fig, which is the most viable source and below that is the Mt. Simon which is statutorily limited to by the DNR to what you can drill from it. He said right now we will drill 2 FIG wells initially with a total estimated capacity of 600 to 800 gpm capacity which is adequate for system initiation. Schmidt said the wells will be funded by the City and costs will be recaptured through facility, trunk and user charges at a total estimated project cost of \$938,100.

Schmidt said the second Water System Component is the Water Treatment Facility (WTF). He said the initial capacity is 1500 gpm and the ultimate capacity is 6000 gpm. Schmidt said the initial treatment provided is iron and manganese removal and then eventually reverse osmosis softening will need to be included. He said this will need to be done so that the customer does not have to use water softening at home and so that ultimately this water can be used for irrigation systems, but we will not be doing it at the beginning. Schmidt said the WTF will be funded by the City and the costs will be recaptured through facility trunk and user charges. He said the total estimated project cost for initial WTF is \$5,541,280. Schmidt said the total initial reverse osmosis softening component is \$1,525,000.

Schmidt said the Water Tower will provide system pressure, consistent supply during variable demand periods and volume for fire flow. He said the proposed tower will have a capacity of 500,000 gallons. Schmidt said we have proposed a Water Spheroid style versus a Composite because of a cost savings of \$800,000. He said the water tower will be funded by the City and the costs would be recaptured through facility, trunk and user charges. The total estimated project cost for the tower is \$1,062,000.

Schmidt said the trunk watermain is the backbone for the water system. He said it conveys flows from production and treatment facilities throughout the distribution system to lateral watermains in individual neighborhoods. Schmidt said it conveys high demand and fire flows. He said generally the watermains are 10 inches and larger. Schmidt said we will have hydrants and valving to make the system reliable. He said the trunk watermain will be owned, operated and funded by the City and the costs will be recaptured from contributing users by assessments, lateral benefit, trunk and user charges. Schmidt said the estimated cost for the trunk watermain is \$2,701,469.

Schmidt said the lateral watermain conveys flows from the trunk watermain throughout individual or smaller service areas or neighborhoods. He said they are generally 6 to 8 inch mains. Schmidt said the lateral watermain would be owned, operated and funded by the City and the costs would be recaptured from contributing users by assessments and user charges. He said the total estimated lateral water distribution system project cost is \$1,000,902.

Schmidt explained that street restoration would be completed on all streets disturbed by utility construction. He said parameters would be the new pavement sections would be in accordance with City standards and replaced at the same width and features as the existing. Schmidt said all cost will be included in the lateral sanitary sewer and water system costs. He said the cost of street restoration is estimated at \$915,001. The streets that would need restoration are Buchanan, Ulysses, 185<sup>th</sup> Avenue and 187<sup>th</sup> Lane.

Schmidt explained that property and easement acquisition would be needed for interceptors, WWRF discharge piping, sanitary sewer and the water system and facilities. He said we would need permanent and temporary easements. Schmidt said we would try to locate as many utilities in the existing right-of-way as practicable and the City and MCES utilities in the same corridor to the extent that is practicable. He said individual and combined easements and property acquisition would be required for MCES only easements, City only property easements, City only property acquisition, City only easements and combined City and MCES easements. Schmidt said there are fifteen (15) parcels and nine (9) owners. He explained the property and easement acquisition cost apportionment methodology: MCES only easements will be acquired and paid for by MCES, City only property acquisition will be acquired and paid for by the City, and combined City and MCES easements will be acquired and paid for by MCES and MCES will grant permission to the City to be located in

those easements. Schmidt said the easement and property acquisition costs are included in the appropriate utility and facility costs. He said the costs will be recaptured as indentified for each utility/facility and the estimated City property and easement acquisition cost is \$666,464.

Schmidt explained financing and funding. He said the proposed financing components include some or all of the following: for the Sanitary Sewer System there are Chapter 429 Bonds, Chapter 444 Bonds, Build America Bonds (BAB), and Revenue Bonds. Schmidt said for the Water System there are Recovery Zone Economic Development Bonds (RZED), Chapter 429 Bonds, Chapter 444 Bonds, Build America Bonds and Revenue Bonds. He said funding is debt service for the proposed project costs and are proposed to be recaptured through a combination of the following charge system components: 1) Lateral Benefit Assessment; 2) Lateral Benefit Availability Charge; 3) Trunk Availability Charge; 4) Trunk Charge; 5) Water Facility Availability Charge; 6) Water Facility Charge; 7) User Charges and 8) Future Internal Lateral Project Costs (Future).

Schmidt explained the charge system definitions:

**Lateral Benefit Assessment** is collected at completion of the project and generally the cost of providing lateral service including service line costs and the cost of providing typical later service in lieu of turn facilities including service line costs.

**Lateral Benefit Availability Charge** is collected at the developer agreement phased and the cost of providing typical lateral service in lieu of trunk facilities providing lateral service excluding service line costs.

**Trunk Availability Charge** is collected at developer agreement phase and is a portion of cost of constructing trunk facilities and buys equity in the trunk system that provides service in the service area.

**Trunk Charge** is collected at building permit phase and a portion of cost of constructing trunk facilities and buys equity in the trunk system that provides service to the service area.

**Water Facility Availability Charge** is collected at developer's agreement phase and a portion of the cost of constructing water facilities (WTF, Tower, Wells).

**Water Facility Charge** is collected at building permit phase and is a portion of the cost of construction water facilities (WTF, Tower, Wells).

**User Charges** are ongoing charges and are a portion of the costs for all improvements not recaptured by other charges and include OM&R costs and include the following: sewer and water base charge, sewer and water gallonage charge and water plant charge.

Schmidt said there are three parcel categories used for apportionment in accordance with "Facility Plan for Infrastructure Needs".

Category 1: Existing Residential Parcels Platted and/or developed or underdeveloped located adjacent to lateral or trunk facilities including service lines.

Category 2: Existing Residential Parcels Platted or Unplatted and/or developed or undeveloped and commercial parcels unplatted and/or undeveloped located adjacent to trunk or lateral facilities that require future lateral projects for service.

Category 3: Residential or Commercial Parcels not located adjacent to lateral or trunk facilities that will require future lateral projects to provide service.

Schmidt said in the cost apportionment methodology for Estimated Equivalent Residential Units (ERUs) are defined as Typical Single Family Household Uses of Water and Sewer System. He said ERUs are calculated based on potentially developable lots per acre based on the City zoning ordinance in effect at the time that the charges are levied and land use in general conformance with Sewer Availability Charge Procedure Manual as published by the

MCES. Schmidt explained that an ERUs in R-1 Residential Parcel: 3 ERU/Acre, Undeveloped Larger Commercial Parcels B-3: 3 ERU/Acre, Developed Commercial Parcels: MCES SAC Manual, Undeveloped Small Commercial Parcels: Comparative to Developed Parcels in the Area and “Big Box” Site: Based on Likely End Users. He said a big box discount retailer would be estimated total ERU: 40, big box discount retailer with grocery ERU: 60, C-Store with 2 bay car wash ERU: 25, Fast Food ERU: 5, Sit down Restaurant ERU: 25 and a Bank ERU: 3.

Schmidt said the estimated unit distribution approximates the distribution in the “Facility Plan” and is adjusted for the Project 1 land uses and adjusted for MCES ERU determination procedures. He said total Phase 1, Project 1 ERU = 580 and Total Phase 1 ERU = 4162.

Schmidt said the estimated unit distribution timing is Category 1 units connected to the system becomes operational over 2 years (2013-2014) – required by the City, existing residential Category 2 units in Project 1 connected to the system over 5 years (2015-2019), new (undeveloped) Category 2 units in Project 1 connected to the system over 5 years (2015-2019), remaining new (undeveloped) Phase 1 Category 2 Units Connected to the system over 30 years (2015-2044) and remaining existing Phase 1, Category 2 Units connected to the system over 10 years (2030-2039).

Schmidt said the cost summary for Sanitary Sewer is Total City Interceptor Project Cost - \$2,200,000, Total Trunk Sewer System Cost (includes land/easement) \$1,328,651, Lateral Sewer System Cost (includes rest) \$976,361, for a Total Sewer System Project Cost\* of \$4,504,971. \*Does not include MCES Sanitary Sewer Related Costs of \$18 to \$25.5 Million.

Schmidt said the cost summary for the Water system is Total Trunk Pipe Project Cost (includes easements) - \$2,701,469, Total Lateral Pipe Project Cost (includes rest.) - \$1,000,902, Total Water Treatment Facility Project Cost - \$5,541,280, Total Water Tower Project Cost - \$1,062,000, Total Wells Project Cost - \$938,100, Estimated total Land/Easement Cost - \$550,000, for a Total Water System Project Cost of \$11,793,751.

Schmidt said the cash flow analysis assumes the following parameters: unit distribution as described, parcels incur charges as described, water improvements in the amount of \$11,466,000 financed with RZED Bonds at 2.48% (4.5% discounted by 45%) for 20 years (expires at end of 2010), remaining water improvements financed with other types of bonds at 4.5% for 20 years and sewer improvements financed with other types of bonds at 4.5% for 20 years.

Schmidt said the cash flow analysis assumes the annual increase in the following charges is 3%: Lateral Benefit Assessments, Lateral Benefit Availability Charges, Water Facility Charges, Trunk Availability Charges and User Charges. He said it also assumes the following increases: Annual Increase in Salary Expenses – 4.5%, Annual Increase in OM&R Expenses – 2.5%, Annual Trunk Charge Increase - \$50 a year and Debt Service Payments from users is at 5.5% for 20 years for the following: Lateral Benefit Assessments and Lateral Benefit Availability Charges.

Schmidt explained that future project included in the cash flow analysis are trunk sewer and water projects to extend the system to complete the trunk system in Phase 1 Area: Project 2 – 2015, Project 3 – 2020 and Project 4 – 2025.

Schmidt explained the initial charges as outlined in the table here:

## Financing and Funding

CHARGE	SEWER	WATER
Lateral Benefit Assessment (\$/ERU)	\$4000	\$4000
Lateral Benefit Availability Charge (\$/ERU)	\$3000	\$3000
Water Facility Availability Charge (\$/ERU)	\$0	\$1000
Water Facility Charge (\$/ERU)	\$0	\$1000
Trunk Availability Charge (\$/ERU)	\$1000	\$800
Trunk Charge (\$/ERU)	\$1000	\$800
Water Plant Charge (\$/ERU)	\$0	\$10
Base Charge (\$/ERU)	\$5.00	\$5.00
Gallage Charge (\$/Kgal)	\$2.75	\$3.00
Future Lateral Benefit Availability Charge (\$/ERU)	\$3000	\$3000

■ Cash Flow Analysis  
 – Initial Charges  
 Recommended  
 Based on Project  
 Costs and Cash  
 Flow Needs

**BOLTON & MENK, INC.**  
 Consulting Engineers & Surveyors

Schmidt said the sewer and water funds will generally be supported by the charge system and during the early years of system implementation, expenses and revenues are closely correlated. He said the debt structure in the early years is key and your fiscal consultant will be addressing these issues tonight with you. Schmidt said this model has flexibility in charge system and can be modified as desired.

Schmidt said Project 1 Assessment and Availability Charges are based on a charge system and cash flow needs. He said ERUs are calculated as outlined, lateral benefit assessments are applied to parcels as outlined, lateral benefit availability charges are applied to parcels as outlined and assessed parcels are required to hook up to system within 2 years of project completion (end of 2014 likely).

Schmidt said the assessments would be 20 years at 5.5% with \$1,208,000 assessed. He said there would be 152 Water ERUs, 150 Sewer ERUs, 22 Parcels and 16 Owners. Schmidt said the future availability charges are at the developer's agreement stage for an estimated \$2,574,000 with 429 Water and Sewer ERUs, 10 Parcels and 6 Owners.

Schmidt said the revenue flow distribution is to structure facilitated payments to the City at various points: after project completion with assessments, at developer agreement stage with lateral benefit availability charges, at time of connection to system with trunk charges and facility charges and with ongoing charges called user charges. He said with this charge system the City would have payments coming in from different sources at different times, this is a good way of doing it.

Schmidt said again, this is not the public hearing, we are asking Council to accept the Feasibility Study. He said we also have a resolution before Council to set the public hearing for Wednesday, October 6, 2010. Schmidt asked if Council had any questions about the feasibility study.

Hunter said this is a lot of information and he thanked Mr. Schmidt for doing such a good job of putting this together. He said it was a lot of information and Schmidt presented it very well. Voss said it is important to note for the audience members and the viewers on Channel 10 that the Feasibility Study is available on the City web site. He asked if this shorter version that was handed out tonight is also on the web site. Schmidt said no, but he will get it on the web site. Paavola said she thinks it would be helpful to have this shorter version on there, it is more helpful. Schmidt said he would be happy to do that first thing in the morning.

**Voss made a motion to accept the Feasibility Study for Phase 1, Project Utility Infrastructure Improvements prepared by Bolton & Menk dated September 10, 2010. Channer seconded; all in favor, motion carries.**

Municipal  
Utilities –  
Res. 2010-53  
Set Public  
Hearing Date  
for Project 1,  
Phase One

Sell explained that with the acceptance of the Feasibility Report, the next step in the project process is to conduct a public hearing for the proposed project. Resolution 2010-53 provides for a Public Hearing for Project 1 Phase One on Wednesday, October 6, 2010 beginning at 7:30 PM.

Staff is recommending adoption of Resolution 2010-53 Setting the Public Hearing Date for Project 1 Phase One of the Municipal Utilities Project.

**Boyer made a motion to adopt Resolution 2010-53 Setting the Public Hearing Date for Project 1, Phase One of the Municipal Utilities Project. Paavola seconded.**

Voss said that is a Council night at 7:30 pm. Sell asked would you like it earlier. Voss said he would gather we are going to have testimony and discussion. Sell said we can limit the agenda to accommodate this. Boyer said if we start earlier we get less people. Voss said how do we handle the Council agenda then. Sell said we can set this for one hour and then you can end it, do your regularly scheduled items and then go back to the hearing. Channer said he would rather try to skinny down the agenda and save the other agenda items for October 20<sup>th</sup>. Voss said he just want to make sure we are going to provide enough time for everyone to be heard.

**All in favor, motion carries.**

Utility Project  
Funding –  
RZED Bonds

Sell explained that at the August 18, 2010 Council meeting, Council directed that work begin on compiling the information necessary to complete an official offering statement, develop bids, etc. At that meeting, Mr. Paul Steinman of Springsted, Inc. presented Council with a calendar.

During the intervening weeks, a new calendar has been developed as additional details have been identified. A copy of that revised calendar was included with your agenda materials. The bond sale, according to the revised schedule, would be November 3, 2010 for the RZED Bonds. These bonds will provide the necessary funds for construction of the Project 1 Phase One water project. The maximum amount of the bonds is \$11.466 million. As the plan becomes more finalized, Council will be asked to adopt a resolution setting the sale for

November 3, 2010 and directing the preparation of the Official Statement for this bond sale. That resolution should be before City Council on October 6, 2010.

Repayment of this debt will be through a series of fees to include connections charges, Service Availability Charges (SAC) and area charges. Mr. Steinman has a sample repayment schedule for this debt issue and will review that with Council. Mr. Steinman is available to review the new calendar and the repayment schedule and respond to any questions you may have.

Steinman said he wants to discuss a couple items with Council. He said the first item is we afforded some luxury to discuss the revised calendar and the recovery zone bonds, but we planned enough room in the schedule to discuss the structure and the revised calendar. Steinman said we moved the consideration of setting the sale by resolution from tonight to October 6, posting the official statement to October 20<sup>th</sup>, rate bonds with Moody's the week of October 25<sup>th</sup>, sell the bonds on November 3<sup>rd</sup> and close, award bonds that evening, so the City would be in receipt of the bond proceeds in early December. He said we only have until the 31<sup>st</sup> of December to close on the sale of the bonds. Steinman said he thinks we will be well on the way to have the sale.

Steinman explained the RZEDB Preliminary structure. He said the par amount of bonds if limited to allocation of \$11.465 million and this is required to be rounded down to 5 thousands as bonds are sold in increments of 5,000. Steinman said included in this is \$1.067 million of capitalized interest that are included in the par amount to make interest payments on the debt because there is no other source of revenue until 2013. He said \$137,580 is the underwriter's discount, the amount you pay the underwriter to market the bonds. Steinman said the cost of issuance is \$59,500 to \$62,500, which leave the City \$10.2 million to put in the project fund to pay for project costs. He said these bonds have a twenty (20) year term with a ten (10) year call. Steinman said it would be twenty (20) years from first principal scheduled date which is 2016 He said the City would be using interest to make payments in 2012, 2013, 2014 and 2015. Steinman said the first principal payment is scheduled for 2016. He said we had to wrap in water infrastructure expenditures in 2015, 2020 and 2025. Steinman said this debt service is wrapped around the RZEDB issuance. He said other issues are we need to establish recovery by resolution, we need a biannual request for 45% interest cost reimbursement within 60 days of payment and we need to do an annual IRS compliance form checklist.

Boyer asked is the 3.2 million in 2015, 2020 and 2025, is that projected on system growth. Schmidt said yes, that is correct.

Council consensus was to move forward with the RZED Bonds as scheduled.

Utility Project Funding – Buy America Bonds (BAB's) Sell explained that the RZED Bonds will provide for most of the required funding for the water utility project. However, there is sewer utility infrastructure that must be constructed to make the system functional. The estimated cost of the sewer infrastructure is \$4.7 million and must be a separate bond issue. As noted, the RZED Bonds are limited to \$11.466 million and will be applied to the water utility system.

There are several debt options for funding the sewer utility infrastructure. Currently, the Federal Government has available Build America Bonds or BAB's as they are referred to. This is a bonding authorization by the U.S. Treasury similar to the RZED bonds. There is an interest rebate component to these bonds like the RZED bonds. However, the rebate is 35%

versus the 45% on the RZED bonds. These bonds would be taxable like the RZED bonds. They would be General Obligation Sewer Revenue Bonds with an interest rebate.

The other option is to issue G.O. Sewer Revenue Bonds. These bonds would be non-taxable bonds. There is no rebate from the Federal Government on these bonds. However, the interest rate is less than the taxable BAB bonds noted above. The total repayment cost difference between these bonds, the non-taxable bonds and the BAB's is about \$140,000 over 20 years. The BAB bonds would be less as they have the rebate component.

The bids for this project will not be available until the latter part of November or early December. To take advantage of the BAB's, the bonds must be sold and closed before December 31, 2010. To ensure this happens, the sale date must no later than November 22<sup>nd</sup> or November 29<sup>th</sup>. The City would not have a firm bid by the time the bonds are sold and the amount of the debt cannot be changed once advertised for public bid. There is a concern among staff about overselling the amount of debt for this project.

If the construction bids are good and the cost for these projects is less than the estimated cost and the bonds are sold based off the estimates, there would be an "over sale" condition. The Treasury would not look favorably on an over sale. Its goal is to ensure that debt issued under this program is judiciously used and not abused.

Based on these concerns, staff is suggesting that Council wait until February or March of 2011 to issue the debt for the sewer project after it has firm construction bids in hand. This would mean issuing a G.O. Sewer Revenue Bond that are not taxable, tax exempt, and would not provide for Treasury rebates on interest. It also allows Council maximum flexibility.

There is the potential, after the first of the year that the Treasury may offer another round of BAB authorizations. This has not been confirmed. However, discussion has been an interest rebate of 29% rather than the current 35%. Other program details would remain about the same. Final determination on this program will likely not come before the general election in November and not be available until sometime in the first quarter of 2011.

Mr. Steinman from Springsted, Inc. will be available to respond to your questions.

Staff is seeking direction on debt issuance for the sewer project. The options are move forward with development of the offering statement for \$4.7 million to fund the sewer project with BAB debt. Or, wait until after firm bids are received and then move forward with a G.O. Sewer Revenue Bond in the first quarter of 2011.

Steinman said with the Build America Bonds the savings of \$140,000 is demonstrated when we do a side by side comparison with the tax exempt rate. He said it is a fairly small amount over a 20 term. Steinman said as staff discussed there is concern of over issuance and there could be a concern of under issuance, you could issue GO Bonds. He said there is a bit of heightened concern about issuing more than needed in BAB bonds. Voss asked what the repercussions are. Steinman said there could be penalties. He said you have yield restriction issues. Steinman said in today's market the yield debt of proceeds that wouldn't be used there could be a number of different ramifications. Steinman said there is a potential that BABs might be available in 2011 and beyond at a smaller interest rebate.

Hunter asked when we would hear if the BABs would be available in 2011. Sell said

probably not until after the elections and maybe not until after the beginning of the year, or maybe not until February or March. He said the worst case scenario is you end up issuing GO bonds, or they offer BABs at a lesser rate which is the best case scenario. Channer said over at MnDOT we have been seeing wildly low bids. He said we can hope for that, but to borrow that kind of money and over borrow is not good.

Voss asked why we don't have this issue with RZED bonds. Sell said the total project cost is much more than what we are going to have available to us. Schmidt said and the only thing that would come in 20% low would be the pipe. Channer said he thinks where the contractors are shaving the bids is excavation, the laying of the pipes. Voss asked if the cost comes in over what the bonds are, do we have the ability to issue GO bonds for this. Steinman said yes, you could issue BAB bonds for it and next year if you were running out of funds you could issue other bonds for it. Sell said some of the work you do for RZED bonds can be applied towards BAB. Steinman said there is a fair rate of efficiency of issuing them at the same time.

Voss asked if the bond issue on the sewer comes up short are we going to issue other GO Bonds down the road. Sell said if it is a small amount we can probably finance it internally for a small time. He said we would have to adopt an internal resolution to make sure the internal loan gets repaid. Channer asked if we had enough of an over sale would it inhibit our ability to bond later. Steinman said it would be unlikely. Schmidt said one quick point, one thing that is unique is we are not going to be drawing until 2012, and we have a long time to incorporate it in as long as it is done correctly from the bond counsel's standpoint. Sell said debt service has to be accounted for separately for water and sewer. Sell asked can Bolton and Menk narrow this down for costs.

Schmidt said he is comfortable with the numbers he has given us now. He said the plant and water tower are very different than pipes, dewatering, etc. Schmidt said he has seen through this whole process what the bidding process has been. He said the same three guys are building these all over the United States. Schmidt said he knows all the contractors. He said the variable part of water debt is in the pipe work. Schmidt said he is not talking about a lot of money, \$800,000. Sell said he doesn't think RZED bonds are the issue here, we don't need to set a number until November 6. Voss said with the water system, the net revenue we are getting from bonds is \$10,200,000 and it doesn't meet the project cost of the system. He said if the bonds for the system for sewer are oversold can we use some of the money left over for the water system. Sell said we were looking at that. Hunter said if we need to do a GO Bond for a million, what would the cost of this be. He said just a general cost. Sell said the question is what would happen if we had to come back in March of 2012 and issue a million dollar bond. Steinman said your cost would be related directly to issuance. Voss asked what the comparative to savings, compared to cost is.

Steinman said so we will move forward with the \$11.466 in RZEDB bonds for the water side. He said and we will look at GO Bonds and BABs side by side for the \$4.7 million for the sewer project.

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

Bob Jacobson of 20628 East Bethel Blvd. NE said he is concerned about the budget. He said he saw an article in the paper that the budget is going to increase and he saw the money we are going to spend on the trail. Jacobson said last year you said employees didn't get a

raise, but instead they got an increase in benefits. He said he didn't get an increase in his social security payments.

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, September 1, 2010, Regular Meeting; C) Resolution 2010-54 Setting Public Hearing Date-Delinquent Accounts; D) Resolution 2010-55 Final Payment and Acceptance of Fire Truck; E) Contract Modification #1 – 2010 Improvements. Paavola seconded; all in favor, motion carries.**

IUP/Interim  
Use Permit –  
Domestic  
Farm Animals  
– 20936 East  
Bethel Blvd. –  
Mary Ciagne

Sell explained that the applicants, Mary Ciagne and Jamal Bawazir, are requesting an IUP for the purpose of keeping two horses on the 4.5 acre parcel they own in East Bethel.

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 acres. The 4.5 acre parcel is not located within a platted subdivision and exceeds the 3 acre minimum requirement. City Code has a limit on the number of animals per parcel. The two horses proposed for this parcel must have two grazable acres. The property contains approximately 3 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 two horses for Ms. Ciagne and Mr. Bawazir, located at 20936 East Bethel Blvd. with the conditions noted in your agenda materials.

**Boyer made a motion to approve the request of Mary Ciagne & Jamal Bawazir at 20936 East Bethel Blvd. NE, East Bethel, MN (PIN 15-33-23-14-0002) for an Interim Use Permit (IUP) for the keeping of two (2) horses with the following conditions: 1) An Interim Use Permit Agreement must be signed and executed by the applicants and the City; 2) Applicants 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) Property owner shall have thirty (30) days to remove approved domestic farm animals upon expiration of the IUP; 5) Property will be inspected and evaluated annually by city staff; 6) Conditions of the IUP must be met no later than October 1, 2010. IUP will not be issued until all conditions are met. Failure to meet conditions will result in the null and void of the IUP. Voss seconded.**

Hunter asked do they live here or are they moving here. Sell said they just own the property. Voss said the land use application says they are applying for the IUP for the tenant. He asked so who are we issuing the permit to. Sell said please correct me if I am wrong, city attorney, but we can't issue the permit to the tenant; we have to issue the permit to someone with interest in the property. Randall said it has to be issued to land and someone with interest in land. Boyer said it lists them as property owners. Sell said they are. **All in favor, motion carries.**

Pay Est. No. 5  
Municipal  
Builders Inc.  
for Well No. 2

Sell explained that a copy of Pay Estimate No. 5 to Municipal Builders, Inc for Well No. 2 Construction was included in your agenda materials. The major pay items for this pay request include well development and start-up. The Pay Estimate includes payment for work completed to date minus a five percent retainage.

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

Staff recommends approval of Pay Estimate No. 5 in the amount of \$51,646.92 for Well No. 2 Construction to Municipal Builders, Inc.

**Hunter made a motion to approve Pay Estimate No. 5 in the amount of \$51,646.92 for Well No. 2 Construction to Municipal Builders, Inc. Boyer seconded; all in favor, motion carries.**

Cedar Creek Trails  
Approve Plans &  
Specifications and Direction  
to Solicit Bids

Sell explained that with the approval of the necessary easements, staff is seeking approval of plans and specifications for the Booster Park East to Cedar Creek Trail Project. The specifications are separated into two projects years, one for 2010 and one for 2011.

Activity for 2010 will include the trail segment from Booster Park East to Xylite Street and along Bataan Street from 222<sup>nd</sup> Lane to 229<sup>th</sup> Avenue. The estimated cost of this segment is \$370,000. A total of \$99,000 will be funded from the Trail Capital Fund and \$271,000 will be funded from the City's MSA account from MnDOT.

For 2011, the trail segment will be along Xylite Street and 222<sup>nd</sup> Lane. The estimated cost of this segment is \$87,000 and will be funded from the Trail Capital Fund.

The trail segment along Xylite Street and 222<sup>nd</sup> Lane consists of widening the pavement 3 feet on each side. This will allow either a 4-foot wide trail on both sides of the road, or an 8-foot wide trail on one side of the road. Staff is requesting direction from Council regarding this item such that it can be reflected on the final construction plans. Both options have the same cost.

Council also requested a cost estimate for providing a separated trail in lieu of the pavement widening along 222<sup>nd</sup> Lane from Bataan Street to just north of the curve. Staff estimates that a separated trail would cost approximately \$95,000 more or a total of \$182,000 for this segment with a separated trail. This estimate is based on the typical section shown on Attachment 3. It is also anticipated that additional easements would need to be acquired.

Staff is recommending approval of Resolution 2010-56 relating to the Plans and Specifications for the Booster Park East to Cedar Creek Trail for 2010 and 2011 construction and direction to solicit bids.

**Boyer made a motion to adopt Resolution 20105-56 relating to the Plans and Specifications for the Booster Park East to Cedar Creek Trail for 2010 and 2011 construction and direction to solicit bids. Paavola seconded.**

Boyer said he thinks we need to still talk about some of this stuff. Jochum said there was concern that the crown is no longer in the center. Hunter said he noticed this in Blaine on a 30 MPH road. He said it didn't make a difference on his driving and there was a trail on the side of the road. Boyer said it is a lot more comfortable to have a wider trail on one side of the road. Voss said to him, this is counter intuitive to what we have taught kids for years. He

said we have taught our kids to go with the traffic on their bikes. Voss said if we have only one side of trail, even if it is eight (8) feet of trail they can't do this. He said perhaps if this was a busy road it would make sense. Voss said pedestrians are supposed to walk into traffic and bikes are supposed to go with traffic.

Channer said and the curve on west side might have site issues. Voss said maybe. He said he is an advocate of having the trail on both sides. He said this is not a cost issue it is basically just adding a shoulder on a 30 MPH residential street that is already wider than a lot of roads in East Bethel. Paavola asked and the cost would be the same. Boyer said yes. Hunter said he would rather have it on one side after seeing it in Blaine. He said especially after driving an oversize vehicle there. Hunter said even though there probably won't be many oversize vehicles driving here.

Voss said people are going to walk where they want to walk. Sell said this doesn't have to be decided yet; we need to have it bid. Paavola said she sees both sides, it is a safety issue. She said but looking at what we have taught our kids she would vote to put the trail on both sides of the road, four (4) foot on both sides.

Voss said on page 71 it looks like the catch bases, like they are beehives. Jochum said these sit down on concrete rings; they have more of an opening. Voss asked are they above ground. Jochum said yes, that is correct. Voss said that worries him because they are in the ditch and this is where snowmobiles and ATVs ride. Jochum said you are looking at sediment barrier traps. The one we used does not sit above ground.

Jochum said the last decision we need you to make is are you leaning towards a separated trail on 222<sup>nd</sup> or not. Voss said he would like to get rid of the separated trail on the other stretch. He said he agrees with having a separated trail on Bataan, but the remainder is non-busy residential street. Voss said it doesn't need a separated trail. Hunter asked is the design we have is the most cost effective. Jochum said yes that is correct. Council consensus was to leave it as it is.

**Channer and Voss, nay; Paavola, Hunter and Boyer, aye, motion carries.**

Special  
Assessment  
Policy

Sell explained that the first draft of a special assessment policy was presented on August 18, 2010 to the City Council for their review and direction. Several changes suggested by City Council have been made and are included in the revised policy that was included with your agenda materials. We have redlined/underlined the changes.

To provide flexibility in the policy, all improvement projects except for water and sewer improvements are assessed to benefitting properties based on one of several different methods. Each the method is defined in Section VII of the policy and an Adjusted Area method has been included that allows the City Council to modify the benefited area based on a number of factors, storm water runoff for example. The policy allows for each improvement project to be reviewed individually by the City Council and a method of assessing benefited properties decided at the time of the improvement. Water and sewer assessments use the Equivalent Residential Units method which is water and sewer use based upon a typical single family household.

A credit to storm sewer assessments for rain gardens was mentioned and so far the policy does not include this type of credit. Research by staff found that some communities provide for rain garden credits. However, credits allowed offset annual storm sewer utility fees that

maintain the storm sewer system and not assessments associated with initial construction of storm sewer improvements. The credit allowed is typically not only for installation of a rain garden that requires the capture of 50% of the roof runoff, but also for maintaining the vegetation in the rain garden.

We have provided a copy of the policy to the City Attorney for review and comment.

Staff requests Council review the attached Special Assessment Policy and provide direction as it relates to changes, corrections, assumptions, etc. contained in this policy. Ms. Pierce is present to respond to questions.

Hunter said he has a correction to the Assessment Policy. He said on page 20 of the policy, C. Storm Water Drainage Improvements, 2. Replacement of Storm Sewers – Replacement costs or reconstruction of existing storm sewers will be assessed at the 30% to the property owner, shouldn't it be will be assessed at the 30% to the benefitting property. Sell asked for storm sewers don't we establish a district. Jochum said yes, and then we assess the benefitting area. Sell said then shouldn't that read property owner in the storm sewer district. He said he thinks we can address this with language that is broader based.

Voss said isn't this a policy. Sell said yes, that is correct. Voss said and policies are meant to be flexible. Boyer said this is very different then our ordinances. Voss said this is not an ordinance, it is just a policy. He said the way he is looking at this is you start implementing policy and you will start coming up on situations where this or that is not working and we tighten it up or make changes, etc. Voss asked how many times we have said as much as we have pushed ordinances that we never get it totally right. Channer asked this isn't in conflict with an ordinance is it. Sell said we rely on our city attorney to check for that. Voss said we can use this as guideline and he like the idea of having a policy.

**Voss made a motion to adopt the Assessment Policy as presented tonight with the language on page 20, C.2 being amended as discussed tonight. Hunter seconded. Boyer, nay; Channer, Hunter, Paavola, Voss, aye; motion carries.**

Code  
Enforcement  
Report

Sell explained that the code enforcement report is provided for your review and information. Voss said we have a lot that of these that are closed, can we move those to the end. Boyer said yes, so that the ones that are open are at the beginning of the report. Voss said it is nice to see we have a lot of closed ones. Boyer asked on Elm Street we have an ongoing problem with garage occupancy. He said we have a date of the last action there, can we get what has happened in the last thirty (30) days. Paavola said yes, can we ask Lieutenant Orlando to follow up on this. Boyer asked or does the City Administrator have an answer. Sell said he will find out and get information to Council in the update.

Fire Dept  
Reports

Sell explained that the monthly Fire Department reports are provided for your review and information. Hunter said he talked about this at the last City Council meeting, but with the report that is coming from Image Trend, there is another accident report with injuries and for the location all it states is Hwy 65 Hwy. He said we need to get this identified. Hunter said this is important for future reference. Channer said they have really been working on this so it must have been missed, or this might be an equivalent address.

Our Saviour's  
Lutheran  
Church –

Sell said he had sent Council some information he wanted feedback on in his update a week or so previously about Our Saviour's Lutheran Church and the location they have for sale and whether this should be an Conditional Use Permit (CUP) or Interim Use Permit (IUP).

Former  
Location on  
Viking –  
IUP/CUP  
Discussion

He said he was looking for direction. Voss said he would be fine with an IUP as long as there is no time factor. Sell said the only time factor would be if it is ceased to be used, then you would have to deal with whether it should continue as a church or not. Voss said whether it is the prospective or current order he would be fine with that. Sell said he was waiting to hear from Council. Randall said his concern is if prospective owner or current owner stops using this as a church could a new person come in and build a new church. Voss and hunter said they think that it would be great if that happened. Sell said he will find out if this is an issue and will let Council know.

Oil  
Contamina-  
tion at  
Recycling  
Center

Sell explained that our insurance company will not have a decision until the end of the month on whether or not they are going to pay the claim for the contamination at the recycling center in the oil recycling. He said we will be taking used oil on recycling day, this Saturday, September 25, 2010 at the East Bethel Ice Arena from 8:00 AM to 1:00 PM. Sell said we also will be taking used oil filters. Voss asked can a sign be posted about this at the recycling center, a big enough sign that residents can read it so they are aware of the opportunity.

New Fire  
Fighters

Channer said as you can see from the minutes from the fire department, we have 8 new fire fighters that started on September 1, 2010. He said you were introduced to some of them at a previous City Council meeting. Channer said three (3) of them are assigned to station one (1) and five (5) of them are assigned to station two (2). He said he is really excited to announce the new fire fighters again

Feasibility  
Study –  
Property  
Owners

Voss asked about table 6.3 in the Feasibility Study that was discussed tonight, did that get out to the affected property owners. Sell said Schmidt from Bolton and Menk is discussing that with them out in the lobby tonight. Voss said there is a lot more than three (3) property owners. Sell said you are right. He said he had calls from three (3) property owners today. He said one of them got online and looked at the numbers and seemed all right with them. Voss said we need to get this information to them, that way we can say at the public hearing that we didn't just publish the information, we gave them the information.

Closed  
Session –  
ACHRA  
Lawsuit

Staff recommends Council close the regular City Council meeting pursuant to Minnesota Statutes, Section 13D.05, subd. 3 to discuss the ACHRA litigation.

**Hunter made a motion to move to close session pursuant to Minnesota Statutes, Section 13D.05, subd. 3 to discuss the ACHRA litigation. Boyer seconded; all in favor, motion carries.**

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

Adjourn

**Boyer made a motion to adjourn at 10:15 PM. Paavola seconded; all in favor, motion carries.**

Attest:

Wendy Warren  
Deputy City Clerk