

EAST BETHEL CITY COUNCIL MEETING

September 1, 2010

The East Bethel City Council met on September 1, 2010 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Greg Hunter Kathy Paavola
Steve Voss

MEMBERS EXCUSED: Steve Channer

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

Call to Order **The September 1, 2010 City Council meeting was called to order by Mayor Hunter at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the September 1, 2010 City Council agenda, pulling Item 5.0 E - Resolution 2010-49 Recovery Zone Economic Development Bonds from the consent agenda and address it as a separate item immediately following the consent agenda. 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. Laurie Olmon of 7427 181st Avenue NW, Nowthen, MN said she has questions on the bonding issue and she doesn't know if you can answer them tonight or not. She said the RZED bonding issue. Olmon asked has the Council looked at any grants as far as livable community, pollution control, and are any of the planned areas shovel ready or shovel certified. Hunter asked are you talking about our sewer project. Voss said as far as grants there are none, we have checked into this. Boyer said as of this moment we are not a participating member of LCA, but we do have a resolution on the agenda tonight to become a participating member of the LCA. Hunter said as far as our projects being shovel ready we are five (5) or six (6) years out. He said Met Council is going to begin building a sewer plant this fall on Highway 65, and it will take at least twenty-four (24) months and as far as being shovel ready to get stimulus money, no, it does not meet those qualifications.

There were no more comments so the public forum was closed.

Consent Agenda **Voss made motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, August 18, 2010, Regular CC Meeting; C) Resolution 2010-48 Declaring October Domestic Violence Awareness Month; D) Labor Agreement-Appendix A-Pay Table for 2011; E) Resolution 2010-49-Recovery Zone Economic Development Bonds. Boyer seconded. Hunter said he has corrections to the August 18, 2010 meeting minutes as follows: Page 4, 3rd paragraph, 3rd sentence: Hunter said probably lack of ~~moment~~ *movement* also. Page 5, 3rd paragraph, 5th sentence: Hunter said actually water and sewer around the lake would increase the total ~~system~~ *user* cost. Page 14, 2nd paragraph, 1st sentence: Hunter said he has an issue with page 79 visioning a sixty (60) ~~foet~~ *inch* pipe in someone's backyard. All in favor, motion carries.**

Sell said Bond Counsel has drafted a Resolution further defining the Recovery Zone applicable to the Economic Development Bonds proposed for financing the water utility facilities in the Project 1 area of Phase One. Resolution 2010-49 identifies the basis for the Recovery Zone and directs that information related to this bond issue be developed and provided to Bond Counsel and the Fiscal Agent as necessary.

Resolution
2010-49
Recovery
Zone
Economic
Development
Bonds

Voss made a motion to adopt Resolution 2010-49 Recovery Zone Economic Development Bonds. Boyer seconded. Voss said the reason he wanted this pulled from the consent agenda is he knows there are questions and statements going around that tonight Council is approving the bonds, which is incorrect. He said Council is designating a zone tonight, which is one of the steps before a bond can be issued. Voss said the sewer is along Highway 65, we will have the discussion a long way down the road. **All in favor, motion carries.**

Pay Estimate
No. 1 –
Erskine St. &
200th Lane
Overlay
Project

Sell explained that a copy of Pay Estimate No. 1 for Rum River Contracting for the Erskine Street and 200th Lane Overlay Project was included in your packet. The major pay item for this pay request is the bituminous wear course. The Pay Estimate includes payment for work completed to date minus a five percent retainage. The total estimated construction cost for this project is \$136,335. Construction costs for this project are financed through the City's Street Capital Fund. Staff recommends approval of Pay Estimate No. 1 in the amount of \$113,257.10 for the Erskine Street and 200th Lane Overlay Projects.

Boyer made a motion to approve Pay Estimate No. 1 for Rum River Contracting for the Eskine Street and 200th Lane Overlay Project in the amount of \$113,257.10. Voss seconded. Hunter asked is the projecting going good. Jochum said yes, there are punch list items which is to be expected. **All in favor, motion carries.**

Res. 2010-50
Set Final Levy
& Budget
Date

Sell explained that state law requires that on or before September 15, 2010, at the regularly scheduled meeting at which the City Council adopts a preliminary levy, the City Council must also announce the time and place of the City Council meeting at which the budget and final property tax levy will be discussed and adopted. Resolution 2010-50 sets the date for this meeting for Wednesday, December 1, 2010 at 7:30 p.m. at City Hall.

Staff recommends adoption of Resolution 2010-50 approving the date of Wednesday, December 1, 2010 at 7:30 p.m. at City Hall for discussion and adoption of the Final Budget and Tax Levy for 2011. Further, that a copy of the adopted resolution be transmitted to the County Auditor.

Voss made a motion to adopt Resolution 2010-50 Setting the Final Levy & Budget Date. Boyer seconded; all in favor, motion carries.

Res. 2010-51
Set
Preliminary
Levy &
Budget 2011

Sell explained that Council, through its discussions at City Council meetings in July and August, has directed that the preliminary property tax levy for 2011 be set such that funds are available to accomplish the goals and objectives Council has identified. These goals and objectives include maintaining police services for 2011 and maximizing the transfers for capital projects. To make provisions for these proposed and potential charges, a General Fund levy of \$4,798,253 is necessary.

To service existing debt, a market based debt levy of \$144,756 is required to meet the debt service requirements for the 2005A Public Safety Bonds issued for the fire station and the weather warning sirens and a tax capacity based debt levy of \$109,500 is required to meet

the debt service requirements for the 2008A Sewer Revenue Bonds.

The total property tax levy amount proposed is \$5,052,509. Resolution 2010-51 provides for this property tax levy. The Minnesota Department of Revenue has provided the City information on levy limits for taxes payable in 2011. Special levies allowed total \$1,958,339, which, when added to the City’s overall levy limitation of \$3,567,484, equals a total maximum allowable levy of \$5,525,823. The preliminary levy of \$5,052,509 provided for in the Resolution is \$473,314 under the allowable levy limit. Once the preliminary levy is set and certified to the County, City Council may not increase the levy amount.

Preliminary 2011 General Fund expenditures decrease \$112,772 or 2.17% from the adopted 2010 Budget. No additional staffing is being proposed for 2011 and overtime payments have been reduced from 2010 levels. Budget decreases are realized in a number of areas that include less travel for conferences and training along with reductions in utility charges and transfers.

Staff recommends adoption of Resolution 2010-51 approving the preliminary property tax levy for 2011 at \$5,052,509 and setting the preliminary General Fund and Debt Service Budgets at \$5,083,473 and \$379,620 respectively. Further, that a copy of the approved resolution be transmitted to the County on or before September 15, 2010.

Boyer made a motion to adopt Resolution 2010-51 Approving the Preliminary Property Tax Levy for 2011 at \$5,052,509 and Setting the Preliminary General Fund and Debt Service Budgets at \$5,083,473 and \$379,620 respectively and a copy of the resolution be transmitted to the County on or before September 15, 2011. Paavola seconded. Boyer asked what would the money that the governor took from us, the homestead credit, how much would that give back to each household. Sell said about \$240,000 or about \$60 per household. Hunter said you are talking about the money the governor promised us. Boyer said yes, the money that was taken from us. Sell said the state gives the credit and then the state says with their budget issues they are not giving the cities their credit. **Voss, nay; Boyer, Hunter and Paavola, aye; motion carries.**

EBHRA Res.
2010-05
Adopting Tax
Levy
Collectable in
2011

Sell explained that as required by the HRA by-laws, the City Council must be advised of the proposed property tax levy by the East Bethel HRA. HRA resolution 2010-05 represents the proposed East Bethel HRA tax levy for 2010 payable in 2011. The levy represents 66% of the levy authorized under statute.

This is an informational item only.

Cedar Creek
Trail
Easements

Sell explained that the route selected by City Council for the Booster East/Cedar Creek Trail begins in Booster East Park at the northeast corner. A map providing the route details was included in your agenda materials as Attach #1, page 45. Details for each easement segment required for this project is included in your agenda materials as Attach #2 through Attach #8. This is the first phase of a trail project that is projected to connect Booster East Park to the University’s Cedar Creek preserve and Fish Lake. The current design of the trail will require no other easements other than those noted. All other trail construction will be located entirely within City right of way.

Funds for the Booster East Park to Bataan Street segment of this Trail will be financed from the Trail Capital Fund. It is estimated cost of this project segment is \$185,000. This part of the project is currently scheduled to be constructed in two phases with the Booster East to

222nd Lane being completed in 2010 and the 222nd Lane segment being completed in 2011.

Currently, the Trail Capital Fund has a balance of \$93,120.15 with an additional \$31,069.50 to be transferred to this fund in December. The estimated cost of the Booster East to 222nd Lane section is \$112,000. The estimated cost of the 222nd Lane section is \$73,000. With the fund balance of \$12,189.65 at the end of fiscal year 2010 plus the projected \$62,139.00 transfer to the Trail Capital Fund in 2011, the remaining project costs would be provided for.

Funds for the Bataan Street segment of this trail will be financed from MSA-Construction funds. It is estimated that the Bataan Street segment will cost \$270,000. This project was approved for this amount in the 2010 Roads Capital Improvement Plan and application has been made to MnDOT for this funding.

Staff recommends approval of the easements as and their conditions as presented with direction to execute easement agreements incorporating the conditions noted and file the executed documents with the County Recorder.

Boyer made a motion to approve the Booster East/Cedar Creek Trail Easements as presented in the September 1, 2010 City Council Agenda Materials and direction to execute the trail easements for the project. Paavola seconded.

Hunter asked did Jochum do most of this work. Jochum said no, Davis did most of the negotiating. Hunter said he did a great job on this. Richard Lawrence of 455 Sims Road, East Bethel said he talked to Council Member Boyer about this before but why are you building a bike path to a place where you can't ride your bike on. He said you can't ride your bike on the University property. Lawrence said this is just frivolous spending.

Hunter said this is obtaining the easements for the project we are not constructing this yet. Boyer said we are constructing 3.4 miles of trail. He said and yes, it is true, we do not have permission to bike around the lake, but now we have permission to bike to the lake. Boyer said we will be riding along the southern edge of University of Minnesota property with an agreement with the university. He asked why should we have a bike path around the lake. Lawrence said this is a bike path to go to the lake, but you can't ride your bike around the lake you have to stop 300 yards from the lake. Boyer said you can ride to the very place where the trail starts to the lake. He said this is the largest single destination in East Bethel. Lawrence said look at where trail starts, it is at the lake. He said he walked it, he knows how long it is. Lawrence said you talk like the trail is leading to the lake, it is not leading to lake, and it is leading to a trail that leads to the lake. He said you are spending his taxes dollars and he doesn't understand why you are spending them.

Voss said this is the reason why he didn't support the levy and the budget. He said it has a lot to do with this project. Voss said it is no secret he doesn't support this expenditure, the whole trail expenditure. He said we are spending a half million dollars on this project, when we could have spent half of that. Hunter said we are talking only the easements tonight. Voss said we wouldn't be getting the easements if we weren't doing the project. Hunter said that is true. **Voss, nay; Boyer, Hunter and Paavola, aye, motion carries.**

Randall said he has some concerns about the Aramaly easement, did Council just vote on this. Hunter said yes. Randall said in the Aramaly easement some of these items should be in a separate document. Jochum said that is a separate document, nothing has changed since you drafted the easements; these are your easements that you drafted. He said these

easements you prepared have not been changed. Randall said that is fine then.

Great River
Energy Work
Group
Member
Appointment

Sell explained that On August 18, 2010, City Council directed staff to establish a work group as requested by GRE following their submittal of a request to initiate the CUP work group process for the construction of a 69 Kilovolt (KV) electric transmission system in the East Bethel area as required by Ordinance 15, Second Series.

According to City Code, Phase I of the preliminary process is the establishment of a work group. The work groups' responsibility is to meet with the applicant to review the proposed project and alternatives for the proposed locations of the electric transmission system. By ordinance, the work group must consist of the applicant, city planner, one council member, one member of each of the city's commissions, and up to two city residents appointed by the City Council.

Staff distributed letters to each of the commission's soliciting volunteers. Members for each of the commissions have volunteered for the task. Work group members from the Council and Commissions would include Councilmember Bill Boyer, Planning Commission Chair Eldon Holmes, Parks Commission Member Tim Hoffman and Roads Commission Member Tanner Balfany.

Residents interested in serving on the work group include Mr. Lou Cornicelli and Mr. Scott Skalicky. Also, tonight we handed out a letter of interest from Jeff Criswell.

Mr. Jeff Corney, Managing Director of Cedar Creek, has expressed interest to serve on the work group as well. Since Cedar Creek is a major player in the routing of the proposed line, Mr. Corney wants to ensure Cedar Creek has representation during discussions.

A tentative timeline for the completion of Phase I was included in your agenda materials.

Staff recommends Work Group appointments to include Councilmember Bill Boyer, Planning Commission Chair Eldon Holmes, Parks Commission Member Tim Hoffman, and Roads Commission Member Tanner Balfany. Staff recommends City Council appoint residents Mr. Lou Cornicelli and Mr. Scott Skalicky or Mr. Criswell to the work group. Mr. Jeff Corney would be invited to represent Cedar Creek as an advisory member.

Hunter asked are all three interested residents here. He said it would be unfair to interview them if all three aren't here. Only two are present, Lou Cornicelli and Jeff Criswell.

Council asked both Cornicelli and Criswell to come forward and state why they want to serve on the work group. Lou Cornicelli said he has been one of the bigger loudmouths about this project, he helped draft the ordinance and has been involved from the start. Pete Criswell said he worked with Lou on the ordinance and he is a retired electrical engineer. Not present is Scott Skalicky. Boyer said we do have a letter from Skalicky in our packet that explains his interest.

Voss made a motion to appoint the GRE Work Group as follows: Council Member Bill Boyer, Planning Commission Chair Eldon Holmes, Parks Commission Member Tim Hoffman, Roads Commission Member Tanner Balfany, Lou Cornicelli and Jeff Criswell. Jeff Corney will serve as an advisory member. Boyer seconded; all in favor, motion carries.

Resolution
2010-52
Electing to
Participate in
the Local
Housing
Incentives
Account
Program
Under the
Metropolitan
Livable
Communities
Act

Sell explained that At the June 16, 2010 Housing Redevelopment Authority meeting, staff from the Metropolitan Council presented information pertaining the Metropolitan Livable Communities Act (LCA).

The Livable Communities Program is a voluntary, incentive-based program for communities to address the region's affordable and lifecycle housing needs, clean-up polluted lands for jobs and tax base, achieve connected development patterns that link housing, jobs, and services, and, maximize the development potential of existing infrastructure and regional facilities.

Should the City volunteer to participate in the program, the city would be eligible to apply for funding from any or all of the three LCA grant programs. These grant programs will provide assistance to the City for investment in affordable and life-cycle housing. The grant programs are the Tax Base Revitalization (TBR), Livable Communities Demonstration (LCD), and Local Housing Incentives (LHI). Each of these programs is explained in greater detail in Attach #2.

To participate in the program, the City would be required to contribute at least 85 percent of a specified amount of local resources to affordable housing for each year the city participates in the program. This contribution, or expenditure, is called the Affordable and Life-Cycle Housing Opportunities Amount (ALHOA). This contribution can take the form of direct cash contributions or in-kind expenses. For example, if the City was a participant in the program in 2010, the city would have been responsible to contribute at least 85 percent of \$27,052. The yearly ALHOA is equal to East Bethel's share of Met Council's annual LCA assessment which is determined based on a formula in the Livable Communities Act. Examples of ALHOA-eligible expenditures include code enforcement, housing assistance, development or rehabilitation efforts and local taxes to support a local HRA.

As part of the Resolution being proposed, Attach #3, the city agrees to provide affordable housing units between the years 2011 - 2020. These units are represented as a range that have been negotiated with Metropolitan Council and agreed upon by the City as part of the approved Comprehensive Plan. Metropolitan Council and Minnesota Housing Finance Agency determine the number of units that can be built annually with the various funding sources. It has been determined that about 65 percent of the affordable housing units necessary to meet the requirement can be generated annually and built with the current funding levels. The City would be responsible for 181 units in total of the region's total affordable housing needs. However, the City would be responsible for as few as 65 percent of this total or 118 housing units over the next ten years.

In addition to the Affordable Housing units, the Resolution provides for certain life-cycle housing. Life-cycle housing refers to varied housing options that meet people's circumstances at all of life's stages by providing a balance of single-family homes, condominiums, townhomes, senior housing and assisted living options.

Life-cycle housing units start at the low end with the rounded fair share affordable unit need, 180 in East Bethel's case. The upper end of the range is the forecasted number of households to be added to East Bethel as approved in the city's comprehensive plan. This means that the City would be responsible for providing between 180 – 2,300 life-cycle housing units within the next 10 years.

Should the Council adopt Resolution 2010-52, the next step is to develop a Housing Action Plan. This plan should be developed by the City's HRA for consideration. As part of LCA participation, the Housing Action Plan must be submitted to the Metropolitan Council by June 30, 2011.

Staff recommends City Council consider adoption of Resolution 2010-52 Electing to Participate in the Local Housing Incentives Account Program Under the Metropolitan Livable Communities Act.

Boyer made a motion to adopt Resolution 2010-52 Electing to Participate in the Local Housing Incentives Account Program Under the Metropolitan Livable Communities Act. Paavola seconded.

Boyer said he knows most of the people in attendance weren't here for our Housing and Redevelopment Authority meeting where we discussed the particulars of this program and the confusion of the fee to participate. He asked the City Administrator to explain the fee. Sell explained that the Met Council has identified the cities share of the big pot or cost is \$27,000. He said their goal to collect is 85% of the \$27,000. Sell said he believe the City Planner said they have reduced that for 2010 and 2011 to 65%. He said you can do this with in kind and use code enforcement for that in kind. Sell said with what the City has in place for code enforcement we would more than satisfy the Met Council's requirement of 65% for the \$27,000. Boyer said so in short, there would be no cost for us to participate in this program, only grants available to us for senior housing.

Julie Moline of 23054 Erskine St. NE asked are you looking at anything other than senior housing. Voss said this is a broad program; there are many opportunities with this. **All in favor, motion carries.** Boyer said resident's can access information on this program on the on Met Council's website under Livable Communities at:
<http://www.metrocouncil.org/services/livcomm.htm>

Town Hall Meeting

Sell explained that a fall Town Hall meeting has been conducted in an election year following the elections. In 2008, the fall Town Hall meeting was held on Thursday November 20, 2008, a week before the Thanksgiving Holiday.

Thanksgiving is on November 25, 2010. The week prior would be November 18th, the day after a regular City Council meeting. Staff is seeking direction on setting the Fall Town Hall meeting event for November, 2010.

Boyer made a motion to set the Fall Town Hall meeting date for Thursday, November 18, 2010 at 6:00 PM. Hunter seconded. Boyer said he likes the one on one, he would like a little longer mingle time. He thought that was more useful. Voss said he doesn't want to start any earlier than 6:00 PM. He said in years past we did the one on one before and after the question and answer. Hunter said so let's schedule 6:00 to 7:00 PM for one on one, 7:00 to 8:00 PM for questions and answers and 8:00 to 9:00 PM for one on one again. Boyer said the reason Council schedules the Town Hall meeting later in election years, even close to Thanksgiving, is we felt that it is unfair to have a Town Hall meeting directly before an election. **All in favor, motion carries.**

Schoolhouse Relocation

Sell explained that at a recent meeting, City Council directed staff to provide quotes for the relocation of the schoolhouse. The schoolhouse is being donated by East Bethel resident Mr. Bruce Plochocki and is located on his property.

The old schoolhouse meets the historic preservation requirements as provided for in the City's Comprehensive Plan. The City does address historic preservation in the most recent Comprehensive Plan as required by statute. The Comprehensive Plan directs the City create an inventory of historically significant features, landmarks and buildings and make an effort to preserve these areas and structures.

The schoolhouse is in reasonable shape with some rehabilitation required. A location for the schoolhouse has been identified in Booster East Park on the north side of the parking lot near the horseshoe pits. There is thought that the schoolhouse could be used as a trail head and interpretive center. Based on staff research, the schoolhouse would not qualify for a historical preservation grant because it's not in its original location. To our knowledge, it has been moved twice and this would be the third move.

Staff has gathered several estimates for the move from moving contactors, foundation contractors and Connexus. The cost to move the structure, excluding the removal of the addition and reframing to close the structure were estimated at approximately \$20,936.28. The breakdown was included in your agenda materials. Based on the lowest responsible proposals, the total cost to move the facility and set it up on a new foundation would be \$20,936.28.

Funding would be from the 2010 Budget General Fund, under Parks Maintenance. These costs do not address any restoration work. Staff is seeking direction from Council regarding the moving of the schoolhouse by awarding the work to the lowest responsible proposers.

Boyer made a motion to award the moving of the schoolhouse to the lowest bidders, Swift Housingmoving, Connexus, US Cable, Plochocki Construction and miscellaneous supplies not to exceed \$20,926.28. Paavola seconded.

Paavola asked when this would be done. Sell said as soon as possible, probably by the end of September. Hunter asked has the abatement issues been identified. Sell said we have tested the paint. He said we will deal with that when it is moved. Voss said he sees this expense is coming out of the Park Maintenance Fund, is there something we didn't do this year that there are funds still there to do this. Sell said we have staff members that have been off from this department, so there is an excess in salaries and benefits. Voss asked where is this going to be placed in the park. Boyer said in Booster East, where the parking lot for the warming house is, just west of the horseshoe pits. **All in favor, motion carries.**

Update on Oil
Recycling
Center

Sell said in last weeks update he sent out a diatribe on what is going on with the oil recycling center. He said we turned this over to the insurance trust. Sell said the contractor has given us an amount of damages and we are not comfortable with this and they want us to sign off on the documents. He said we have told them no, not until insurance company says there is monies to cover this.

Voss asked him to explain the situation. Sell said about a month ago there was a PCB oil contamination at our recycling center. He said our oil recycler told us this was a pretty high concentration, so we immediately shut down our oil recycling center and contacted the MPCA. Sell said they told us to completely clean the tanks and take care of this. He said this must be done by incineration. Voss asked how many gallons of oil are they holding. Pierce said she thinks it is 36,000 that went into their own tank.

Voss said the protocol is you test the truck. Sell said that is why we are protesting. Voss said these numbers don't make sense. He said it is only \$3 per gallon to dispose of it. Sell said they are claiming lost income, etc. Voss said their numbers are wrong, something is not right. Paavola said if they are not following protocol, there are issues. Boyer said what he finds especially irritating is we have provided this service to residents for a number of years to recycle their oil and now because someone decided to do this, we are probably going to have to end this service. Voss said that may be the case, but the PCBs from this oil probably came from a transformer, someone probably tried to recover the copper from a transformer and brought the oil to the recycling center instead of dumping it on the ground. He said he doesn't think we can discount this, as it was probably someone that thought they were doing the right thing. Voss said we need to consider moving this tank. He said there are ways we can handle recycling oil and still provide the service in an environmentally controlled fashion.

Sell said the issue we have with the insurance company is this is the second time we have had an issue at the recycling center and what he is fearful of is they are going to tell us that we have to shut it down or we can keep it open but they won't insure it. Voss said we might have to move it to the maintenance building during working hours. He said we don't have the businesses that take oil out here. Sell said the phone calls we have gotten are if we can't take it here, where can we take it. He said we used to give the oil away, now someone pays us for it.

Adjourn

Boyer made a motion to adjourn at 8:35 PM. Paavola seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk