

EAST BETHEL CITY COUNCIL MEETING

June 16, 2010

The East Bethel City Council met on June 16, 2010 at 7:30 PM for their regular meeting at City Hall.

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

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

Call to Order **The June 16, 2010 City Council meeting was called to order by Mayor Hunter at 7:30 PM.**

Adopt Agenda **Voss made a motion to adopt the June 16, 2010 City Council agenda. Paavola seconded; all in favor, motion carries.**

Sheriff's Report Sell said Lieutenant Orlando said the custodial arrests/significant arrests for the month of May 2010 as follows:

05-11-10 - Felony DUI/ Possess Controlled Substance - Deputies were called on a female who reported being held by her boyfriend against her will. Upon arrival it was learned that the female was not being held against her will, but the boyfriend was under the influence of narcotics. The boyfriend, who had been driving, failed all field sobriety tests and agreed to take a blood test. He was also found to be in possession of a 5th degree controlled substance.

05-14-10 - 5th Degree Domestic Assault - Deputies were dispatched to a call of a domestic assault that had just occurred. Upon arriving the girlfriend advised her live-in boyfriend of five years came home drunk and was acting belligerent. She advised he grabbed her and threw her up against a wall in the laundry room. There was an overturned laundry cart in the room. She advised she was in fear for her safety. The boyfriend was arrested.

05-15-10 - Personal Injury Accident - Deputies were dispatched to a motorcycle personal injury accident. Upon arrival they found that a motorcycle had been traveling south on East Bethel Blvd at a high rate of speed. The driver lost control when entering a curve and crossed into the north bound lane of traffic, colliding with a Dodge Ram pickup. The driver of the motorcycle was airlifted to HCMC, with severe head trauma.

05-15-10 - 5th Degree Domestic Assault / Criminal Damage to Property - Deputies were called by a mother regarding her adult son being drunk and out of control. She fled to the neighbor's house to call, after he broke down a door. Deputies arrived to see the son arguing with his mother in the yard. The male was extremely intoxicated and belligerent. The male was arrested and taken to jail.

05-29-10 - 1st Degree Assault - Deputies were called by a male reporting he was stabbed by a female. The male had been stabbed in the back and on the face. The female was mad at the male for allegedly taking a credit card of hers. The male denied taking the card and the

female grabbed a knife stabbing him. The female was arrested. The male sustained non life threatening injuries.

Lieutenant Orlando said domestic calls (non-crime) for the month were twenty (20) and DWI arrests for this month were five (5).

Hunter asked did the motorcycle guy live. Lieutenant Orlando said as far as she knows he made it. Paavola asked did he have a helmet on. Lieutenant Orlando said as far as she knows, yes. Hunter asked did we get our new patrol car yet. Lieutenant Orlando said she will check. Channer said there was a big accident in Ham Lake about a week ago, northbound around Constance. Hunter said it was about a week and a half ago. Channer said they were out there diverting traffic. Hunter said it was around 4:30-5:00 p.m. Channer said it was a weekday; there were around ten (10) fire trucks/ambulances, etc. He asked do you know what happened. Lieutenant Orlando said no, she doesn't track stuff in Ham Lake much. She said she can find out.

Public
Hearing –
Ordinance 23,
Second Series
– Amending
Appendix A,
Zoning of the
East Bethel
City Code

Sell explained that at the May 5, 2010 City Council meeting, City Council approved Ordinance 19, Second Series, An Ordinance Amending Appendix A, Zoning of the City of East Bethel City Code with the exception of the section relating to lot sizes when lot sizes have been reduced for public dedication or donation. At the May 19, 2010 City Council meeting, staff presented a proposed change and Council indicated consensus. The City Attorney advised that a public hearing was in order and that the City Council could conduct the public hearing rather than referring the matter back to the Planning Commission. A public hearing was advertised in the City's official newspaper on June 4, 2010 for 7:00 PM on June 16, 2010 to consider Ordinance #23.

The proposed changes were provided in your agenda materials. Staff recommends City Council conduct a public hearing relating to Ordinance 23, Second Series, An Ordinance Amending Appendix A, Zoning, of the East Bethel City Code.

Adoption of this ordinance is scheduled under Item 9.0 E.2 of this agenda.

Hunter opened the public hearing. He said any one that is present and wishes to comment on Ordinance 23, please come forward and state your name and address for the record. There was no one that came forward, so the public hearing was closed.

Channer said he is still a little confused on the verbiage, but it has been substantially reduced. Boyer said it is the amount of the thing. Channer said but if you are left with an acre you get to figure density on three acres. Randall said we had to figure a break even point, and that was an arbitrary decision. Randall said we looked at how many things you could do on a lot of that size. Channer said he is thinking about on a two (2) acre lot and it was reduced by an acre and a half. Randall said and as a practical matter if you are going to take an acre and a half, you would normally take the whole thing.

Channer said we are obviously using some standard language we pulled from somewhere else. Randall no, we made this up ourselves. Channer said let's see what happens and if we need to change it. Boyer said in his mind we were talking about when we requiring extra road easement, or something along those lines. Channer said he was thinking about those areas by Coon Lake Beach or places like that. He said he knows where we are coming from, but he had to talk through it.

- Hunter opened the Public Forum for any comments or concerns that were not listed on the agenda. There were no comments so the Public Forum was closed.
- Consent Agenda**
Boyer made a motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, June 2, 2010, Regular Meeting; C) June 2, 2010 Work Meeting Minutes; D) Approve Cigarette License, MaryAnn Schumacher, Coon Lake Market; E) Approve Gambling Permit; F) Seasonal Employee – Public Works. Voss seconded; all in favor, motion carries.
- Park Comm Minutes**
Sell explained that the unapproved meeting minutes Meeting minutes from the May 12th Park Commission are provided for your review and information.
- Magda Properties – LOC Reduction**
Sell explained that Mr. Landborg has a current letter of credit (LOC) in the amount of \$193,900 that expires on July 1, 2010. The LOC was provided as a requirement of the Mining Performance Agreement, which was executed for a project on the northwest corner of Trunk Highway 65 and County Road #22. The LOC was required to guarantee the grading, replacement of topsoil, seed restoration of the site and, to guarantee no impacts to neighboring wells and wetlands.
- Mr. Landborg has requested a reduction in the LOC amount. In accordance with Section 12, Security, of the Mining Performance Agreement, the LOC may be reduced to \$54,000 upon completion and acceptance by the City of the grading and replacement of topsoil. The remainder of the LOC, \$54,000, must remain in place until September 1, 2011 to guarantee no impacts to neighboring wells and wetlands.
- The City Engineer has reviewed the project grading and restoration and has found the work acceptable. The City Engineer and the Anoka Conservation District have also reviewed the latest water monitoring reports. Both the City Engineer and the Anoka Conservation District concur that the groundwater levels have returned to the elevations that existed prior to the start of the dewatering and mining operation.
- Staff is recommending approval of a reduction in the LOC from \$193,000 to \$54,000 per the Mining Performance Agreement dated September 9, 2008. This approval would be subject to Mr. Landborg providing a replacement LOC in the amount of \$54,000 on or before June 23, 2010.
- Voss asked how you came up with the \$54,000. Jochum said it was in the agreement. Randall said it was a total of about four different items. Jochum said he thinks it was a percentage.
- Voss made a motion to approve the reduction of Letter of Credit (LOC) for Magda Properties, project at TH 65 and County Road 22, from \$194,000 to \$54,000 per the Mining Performance Agreement dated September 9, 2008 subject to the replacement LOC being provided on or before June 23, 2010. Paavola seconded; all in favor, motion carries.**
- Code Enforcement Report**
Sell explained that the code enforcement report is provided for your review and information. Boyer asked about the Dahlia Street property. Sell said it is in court, and he thinks the property owner has until sometime this month to dispose of building or the City will dispose of it for him. .

Ord. 23,
Second Series,
Amending
Appendix A,
Zoning of the
East Bethel
City Code

Sell explained that earlier this evening, City Council held a public hearing for Ordinance 23, Second Series, an Ordinance Amending Appendix A, Zoning, of the East Bethel City Code, on an exception to lot sizes in instances when lot sizes have been reduced for donation purposes for a public use or a taking by the City, County, or State for a public purpose. A copy of the proposed ordinance was included in your agenda materials

Staff recommends approval Ordinance 23, Second Series, An Ordinance Amending Appendix A, Zoning, of the East Bethel City Code.

Boyer made a motion to adopt Ordinance 23, Second Series, Amending Appendix A, Zoning of the East Bethel City Code. Paavola seconded; all in favor, motion carries.

Summary of
Ord. 23,
Second Series

Sell explained that with the adoption of Ordinance 23, Second Series, the City is required to publish the ordinance or a summary of the ordinance. A copy of the summary was included with your agenda materials.

Staff recommends adoption of the Summary of Ordinance 23, Second Series, An Ordinance Amending Appendix A, Zoning, of the East Bethel City Code and direction to publish in the City’s official newspaper.

Boyer made a motion to adopt the Summary of Ordinance 23, Second Series, Appendix A, Zoning of the East Bethel City Code and direction to publish in the City’s official newspaper. Voss seconded; all in favor, motion carries.

Ord. 24,
Second Series,
Establishing
Regulations
and Licensing
for Massage
Businesses

Sell explained that on April 5, 1989, City Council adopted Ordinance 148, Regulating Massage Parlors, Sauna, Etc. and Providing for the Licensing. A copy of this ordinance was included with your agenda materials for reference.

The purpose of Ordinance 24, Second Series is to prohibit massage businesses and services to the public except those licensed as therapeutic massage enterprises and massage therapists as provided for in the original ordinance #148. The licensing regulations prescribed in the proposed ordinance prevent criminal activity and protects the health and welfare of the community. Ordinance 24, Second Series was included with your agenda materials for reference. The changes to the original ordinance were identified in your agenda materials and incorporate the comments of the City Attorney and the recommendations of the League of Minnesota Cities.

Staff recommends approval Ordinance 24, Second Series, An Ordinance Amending the East Bethel City Code by Establishing Regulations and Licensing for Massage Businesses.

Boyer made a motion to approve Ordinance 24, Second Series, Establishing Regulations and Licensing for Massage Businesses. Paavola seconded. Boyer said for public information, this was last written in 1989 so this is part of the cities efforts to update the older ordinances, this was rewritten. **All in favor, motion carries.**

Summary of
Ord. 24,
Second Series

Sell explained that with the adoption of Ordinance 24, Second Series, the City is required to publish the ordinance or a summary of the ordinance. A copy of the summary was included with your agenda materials.

Staff recommends adoption of the Summary of Ordinance 24, Second Series, An Ordinance

Amending the East Bethel City Code by Establishing Regulations and Licensing for Massage Businesses.

Boyer made a motion to adopt the Summary of Ordinance 24, Second Series, An Ordinance Amending the East Bethel City Code by Establishing Regulations and Licensing for Massage Businesses and direction to publish in the City's official newspaper. Paavola seconded; all in favor, motion carries.

Fire Dept.
Reports

Sell explained that the monthly Fire Department reports are provided for your review and information. Voss asked did they talk about not handing out candy at parades and the sirens at parades. Channer said yes, the really loud siren has injured people at the parade and the when they throw candy at the parades kids have gotten injured. He said also every time the vehicle moves people are supposed to check it.

MN/USA
Wrestling
Premises
Permit
Application

Sell explained that on June 4, 2010 the City received an application for a "Gambling Premises Permit" from MN/USA Wrestling, Inc. for a charitable gambling operation located at Fat Boys Bar and Grill, 21383 Ulysses Street NE, East Bethel, Minnesota. This is not an application for a gambling license as all gambling licenses are issued by the State of Minnesota. The City only has input as it relates to the Premises Permit. It is our understanding that MN/USA Wrestling, Inc. has applied for a received approval to renew their gambling permit with the state that is applicable to all gambling sites/locations they operate in Minnesota. However, the organization is required to obtain a Resolution of Support from the City Council in the City they are operating.

The application for the Premises Permit requires the organization to disclose any violations of State Statute, State Rules or City Ordinances related to gambling within the last three years. MN/USA Wrestling, Inc. identified a single violation that occurred in Minneapolis for which they were fined \$100. The violation, according to their application, was for an "illegible signature."

Upon further investigation with the Charitable Gambling Board, it was discovered that in the past three years, this organization has been cited for four violations dating back to July 16, 2009. The citations were written by the Minneapolis Police Department based on routine inspections of various gambling operations. The citations were at four different locations, included minor violations, and, involved penalties totaling \$600.

Pursuant to City Code, the permit application should have been submitted at least 90 days before a change to the premises permit. The change to the premises permit which triggers the request for support to the premises permit by the City was signed on May 21, 2010. The application for support should have been received no later than February 21, 2010. Notwithstanding the late application for a resolution of support for the premises permit from the City, the City Council is not permitted to approve or take affirmative action on the request as the organization has had multiple violations "of state statute, state rule, or city ordinance relating to gambling within the last three years." This is from Section 42-193, (e) (1)) of City Code. The complete section was provided with your agenda materials along with copies of the violations.

Staff is seeking direction on Resolution 2010-29 either approving or denying support of the premises permit for charitable gambling operations by Minnesota/USA Wrestling Inc. at Fat Boys Bar and Grill.

Boyer made a motion to adopt Resolution 2010-29 Denying Support of the Premise Permit for Charitable Gambling Operations by Minnesota/USA Wrestling Inc. at Fat Boys Bar & Grill. Channer seconded. Hunter asked are you making this motion based on the violations. Boyer said yes, there is not much to discuss there are four (4) violations here. He said he thinks they also might have trouble meeting the trade area.

Voss said he wants to point out that the violations are pretty petty. He said he thinks the intent when we wrote this was more serious in terms of offenses. Voss said this organization has 500 outlets and four (4) citations; it is a little different than an organization that has two (2) outlets and four (4) citations. He said the way it is written now is just a violation. Sell said yes, that is the way it is written now. **Hunter and Voss, nay; Boyer, Channer and Paavola, aye, motion carries.**

Ord. 25,
Second Series,
Amending
Chapter 18
Businesses,
Article IV,
Regulating the
Sale of
Tobacco

Sell explained that City Code regulating tobacco licensing was last updated in 2003. Many areas of Article IV, Regulating the sale of tobacco are out-of-date. Staff reviewed several other city ordinances including the Cities of Ramsey, Fridley, Blaine, Mounds View, Elk River and North St. Paul. In addition, staff received input from Mr. Pete Regnier the attorney that recently represented the city in a tobacco ordinance violation trial and from the League of Minnesota Cities. From that review, staff has created an updated ordinance for review and consideration. A copy of this proposed ordinance is included with this agenda write-up.

The updated and changed section have been identified by underline and strike through to the proposed ordinance and include changes in the following sections:

The Purpose was amended incorporating changes that identify the seriousness of minors use of tobacco, the health problems related to that use; and, the intent to prevent minors from starting to smoke as provided for in Minnesota Statutes, 144.391.

Definitions were updated with the inclusion of Exclusive tobacco stores; self-service merchandising; and, an updated definition for vending machines.

Licensing was amended to include posting of a notice at exclusive tobacco stores; license transfer previously addressed under "Term" making it clear that a license is not transferable; movable place of business; the licensee is now required to educate employees who will be selling tobacco on the City requirements and state law and requires the licensee to keep on file documentation that the employees have been educated on such requirements and laws; and, specifies situations and the process to request a refund.

Compliance sales is amended further identifying who will be used in compliance checks; setting a uniform standard to be used when performing a compliance check; and what is expected of the minor in the course of a compliance check.

Other illegal acts is amended to add exclusive tobacco stores.

Administrative civil penalties for licensees is amended to allow the licensee to request that a portion of the civil fine be waived by performing community service. Further, it places a time constraint for performing the community service within sixty (60) days of the action by the City Council.

Exceptions and defenses is amended to allow for state law changes.

Self service is added as the City Code did not address this type of sale. It would now be unlawful to sell tobacco products by self-service.

Boyer made a motion to adopt Ordinance 25, Second Series, Amending Chapter 18, Businesses, Article IV, Regulating the Sale of Tobacco. Paavola seconded. Hunter, nay; Boyer, Channer, Paavola and Voss, aye; motion carries.

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| Summary of Ord. 25, Second Series, Amending Chapter 18, Businesses, Article IV, Regulating the Sale of Tobacco | <p>Sell explained that with the adoption of Ordinance 2, Second Series, the City is required to publish the ordinance or a summary of the ordinance. A copy of the summary was included with your agenda materials.</p> <p>Staff recommends adoption of the Summary of Ordinance 25, Second Series, Amending Chapter 18, Businesses, Article IV, Regulating the Sale of Tobacco and direction to publish.</p> <p>Boyer made a motion to adopt the Summary of Ordinance 25, Second Series, Amending Chapter 18, Businesses, Article IV, Regulating the Sale of Tobacco and direction to publish in the City's official newspaper. Voss seconded; all in favor, motion carries.</p> |
| Great River Energy | <p>Sell said he received an e-mail from a representative from Great River Energy (GRE) who indicated that they will have proposal to Council soon. He said they understand the process now. Sell said when they get a proposal in, Council will have an opportunity to put together a work group and work with them</p> |
| Vandalism | <p>Paavola said we have had some vandalism and break-ins at Coon Lake Beach. She said people either need to store their cars in their garage, or need to not store all their valuables in their cars. Paavola said one kid got a \$1,000 worth of stuff taken from his car. She said this is just a reminder; don't leave your stuff in your car. Paavola said she talked to Lieutenant Orlando tonight and the deputies will try to get more patrols out there in the evening.</p> |
| Throwing Candy at Parade | <p>Paavola said she has a question about throwing candy at the parade. She said is this something we will be looking at for our parade. Paavola said in terms of the city vehicles we should have plenty of staff to walk down the parade route and hand it out.</p> |
| Damage to Equipment at Coon Lake Beach Comm. Ctr. Park | <p>Boyer said he has a question for staff. He said he let staff know that there was damage to the recreational equipment at the Coon Lake Beach Community Center and he hasn't heard back on it. Boyer said he knows it hasn't been repaired. Paavola said it happened when the slide was put up. Boyer said the kids played on it before the concrete set. Paavola said it was supposed to be taken care of but the weather hasn't cooperated. Boyer said we need to repair it.</p> |
| Park Meetings | <p>Boyer said we have been holding our Park Commission meetings at neighborhood parks. He said our last meeting was at the Rod and Norma Smith park and we had 10-15 residents show up. Boyer said it is a great way to get community participation.</p> |
| Fire Fighter's Dance | <p>Channer said he was at fire department staff meeting and the fire fighters will be starting to sell tickets for their dance on July 17, 2010, the night of Booster Day. He said all they charge is \$2, but it is more at the door. Channer said this is the last year you will see the band High Noon there, they are busting up after this. He said you should buy early and buy often. Hunter said so if someone is hearing this and hasn't seen a fire fighter, how can they get a ticket. Channer said you can contact Troy Lashinski. Sell said or call the Fire Chief at</p> |

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763-367-7885, one way or another we will get a fire fighter to contact them.

Adjourn

Boyer made a motion to adjourn at 8:10 PM. Paavola seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk