

EAST BETHEL CITY COUNCIL MEETING

June 2, 2010

The East Bethel City Council met on June 2, 2010 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Steven Channer Greg Hunter (7:50 PM)
Kathy Paavola

MEMBERS EXCUSED: 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 2, 2010 City Council meeting was called to order by Acting Mayor Boyer at 7:34 PM.**

Adopt Agenda **Paavola made a motion to adopt the June 2, 2010 City Council agenda. Channer seconded; all in favor, motion carries.**

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

George Paavola of 213 Hawthorne Road said on Monday afternoon he got a citation for trespassing. He said it was on Aspen Road. Paavola said in 1925 they made dedicated roadways on Lakeshore Road, and where the Coon Lake Community Center is they have to the center of the road. He said these people are denying him access to the Coon Lake Beach Community Center. Sell said he has already discussed this with the city planner and asked her to work with Paavola and the engineer. He said he wants to get this on our GIS map so everyone will know who owns the property out there so this will minimize this issue. Paavola said there is a fence there and no trespassing sign, the officer said the blacktop ends here, so he had to give him a citation. Channer said he agrees with Sell, we need to get everything identified there so we can see what happened or didn't happen.

Gretchen Mischler of 22906 Jackson St. NE said we were given a deadline to sell our home by June 30th. She said we have a purchase agreement and it was supposed to close on April 31st for \$30,000 and now three days ago they called and offered us \$15,000 and offered to close on June 20th. Mischler said we think they did this because they know we have this deadline. She said we are asking for an extension because we don't want to accept this second offer.

Sell said he had heard that the initial purchase offer had fallen through. He said he didn't hear about the second one. Mischler said they were supposed to buy it outright and then she thinks they found out about our deadline. Sell said he knows there isn't a judge that will force someone to purchase. Mischler said they outbid everyone that was interested in the property, and now everyone is gone. Randall said if they had no good reason to back out of the deal they would forfeit the earnest money. Mischler said if we could get a 60 or 90 day extension then maybe we could find another buyer. She said there is nothing left out there except the fence around the basement. Paavola asked so you just need time to find another buyer. Boyer said he is just concerned about public safety with the open basement.

Boyer made a motion to approve the request for an extension of the deadline for compliance letter requirements until August 31, 2010 for the property at 22906 Jackson Street NE. The extension stays with the property. The extension is conditioned on the barricade around the open basement being maintained and if there is an issue with the barricade the property owner will be given notice by the City Administrator and have three (3) days to fix it. Channer seconded; all in favor, motion carries.

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

SWPPP
Annual Public
Hearing

Sell explained that the City of East Bethel has prepared a Storm Water Pollution Prevention Program (SWPPP) in accordance with the National Pollutant Discharge Elimination Program General Permit, which authorizes Municipal Storm Sewer System operators to discharge storm water. The goal of the SWPPP, when implemented, is to reduce the discharge of pollutants into receiving waters to the maximum extent practicable. The Minnesota Pollution Control Agency issued coverage under the National Pollutant Discharge Elimination System (NPDES) General Permit for Municipal Storm Sewer Systems to the City of East Bethel on January 9, 2008.

The City's storm water program addresses the six minimum control measures and the associated Best Management Practices (BMPs) as required by the General Permit. These BMP's were identified in your agenda materials. City staff continues to develop implementation strategies as outlined in the SWPPP and have implemented a number of BMP's to address SWPPP goals over the past several years. One of the requirements of minimum control measure 2 is that the City conducts an annual public hearing before June 30th of each year. At this hearing, the City invites input, both oral and written, regarding the adequacy of the SWPPP. Based on this input, the plan can be adjusted as appropriate. As required, the meeting notice was advertised in the Anoka Union. Copies of the City's SWPPP are available for public review at City Hall and on the City's website.

At this point, Staff recommends Council conduct the annual public hearing to consider input on the City's Storm Water Pollution Prevention Program.

Boyer opened the public hearing. There were no comments.

Paavola made a motion to close the Public Hearing for the City's Storm Water Pollution Prevention Program. Channer seconded; all in favor, motion carries.

Channer asked about street sweeping. He asked are we laying off on the street sweeping until the crack sealing and Class V projects have been done. Channer said it doesn't seem like it has been done in his neighborhood. He said the street perpendicular is being crack sealed and it doesn't seem like this street has been swept. Channer said he never saw the sweeper. Sell said he will ask the Public Works Manager. Channer said one of his neighbors was complaining that it was like sloughing though the beach when walking.

Consent
Agenda

Paavola made motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, May 19, 2010, Regular CC Meeting; C) Approve One Day Temporary On Sale License for Alliance for Metropolitan Stability at the Blue Ribbons Disc Golf Course on June 19, 2010; D) Resolution 2010-23 Accepting Donation from CHOPS, Inc.; E) Resolution 2010-24 Accepting Donation from Hakanson Anderson Assoc. Inc; F) Resolution 2010-25 Relating to the Financing of the Construction of the Sewer Utility Infrastructure Project to be undertaken by the City Establishing Compliance with Reimbursement Bond Regulations under the Internal Revenue Code;

G) Liquor License Renewals; H) Resolution 2010-26 Declaring 1996 Eglin Street Sweeper Surplus; J) Purchase 2010 Z Track Mower; K) Change Order #1 – Dresel Contracting Inc., Wild Rice Drive Project; L) Appointment of Cable Technician. Channer seconded; all in favor, motion carries.

Pay Est. No. 2 to Municipal Builders, Inc. for Well No. 2 Construction, Well Pump, Piping and Electrical Revisions to Pump-house No. 1

Sell explained that attached is a copy of Pay Estimate No. 2 to Municipal Builders, Inc for Well No. 2 Construction at Whispering Aspen. The major pay items for this pay request include drilling the 23 inch open hole and installation and setting of the 18 inch inner casing for Well No. 2. 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. The remaining \$74,601 is proposed to be financed through the Public Facilities Authority's Drinking Water Loan program. Staff recommends partial payment of \$58,915.80.

Paavola made a motion to approve Pay Estimate No. 2 to Municipal Builders, Inc. for well No. 2 Construction at Whispering Aspen in the amount of \$58,915.80. Channer seconded; all in favor, motion carries.

Pay Est. No 2 to Dresel Contracting Inc. for Wild Rice Drive Project

Sell explained that attached is a copy of Pay Estimate No. 2 to Dresel Contracting, Inc for the Wild Rice Drive Reconstruction Project. The major pay items for this pay request include muck excavation, storm sewer installation and curb and gutter construction. Funding for this project is from the City's MSA account. Staff recommends partial payment of \$282,606.38.

Channer made a motion to approve Pay Estimate No. 2 to Dresel Contracting, Inc. for the Wild Rice Drive Reconstruction Project in the amount of \$282,606.38. Paavola seconded.

Boyer said he thinks it would be an appropriate time to get an update from the engineer on this project. Jochum said by Monday it will have a black surface and the final layer of asphalt either next week or the week after. He said for the most part then it will be all wrapped up. Boyer asked when the detour will be down. Jochum said after the first layer of paving is down it will be completely open. **All in favor, motion carries.**

2010 Class V Bid Award

Sell explained that at their March 9, 2010 meeting, the Roads Commission recommended approval of Allen Street, Skylark Drive and Zumbrota Street for resurfacing work in 2010 consistent with the street maintenance plan. Bids were solicited by advertising in the Anoka Union and the Upper Midwest Civil Construction Bulletin. Bids were received and opened for this project on May 20, 2010. The bids were based on an estimated application of up to 1,300 tons of Class V material for Skylark Drive and Allen Street and up to 1,150 tons of lime rock for Zumbrota Street. The bids are unit priced and delivered, for the project roads noted above and included Bjorkland Trucking at \$9.95/ton for Class V and \$16.75/ton for lime rock.

Based on the estimated 2,450 tons, the low bid for this material is \$32,197.50 plus sales tax of \$2,213.58 from Bjorkland Trucking. The lime rock will be applied on Zumbrota Street and the Class V on Skylark Drive and Allen Streets per 2010 maintenance plans.

Staff recommends awarding the 2010 Class V/lime rock contract to Bjorkland Trucking not to exceed \$32,197.50 plus \$2,213.58 in sales tax for the Class V and lime rock material including delivery with costs charged to the General Fund Street Maintenance Budget.

Boyer made a motion to award the 2010 Class V/lime rock contract to Bjorkland Trucking not to exceed \$32,197.50 plus \$2,213.58 in sales tax including delivery with costs charged to the General Fund Street Maintenance Budget. Paavola seconded.

Boyer asked when did we start getting charged sales tax as a municipality. Sell said municipalities were brought under the sales tax umbrella fifteen (15) years ago. He said we are no longer exempt, but fire trucks and equipment are. Sell said but after we take delivery of the fire truck and equipment, if you need more hose for the truck then you pay sales tax. He said almost every year a bill is introduced to exempt cities from sales tax, but the state says they could not lose the income. **All in favor, motion carries.**

Nelson
Trucking –
18649 TH 65
–
Noncompliant
Issues

Sell explained that from Anoka County Assessor's data, Mr. Norman Kunza, or other family members owned the property at 18649 Trunk Highway 65 from June 9, 1992 through November 14, 2007. The property was sold on November 15, 2007 to Selena Lee. The bank Bayview Loan Servicing LLC of Coral Gables, Florida took ownership of the property on June 19, 2009 as a result of foreclosure action. Staff understands that the bank has allowed the business(es) to continue to operating on the site.

From City records, the business known as Nelson Trucks and Parts has been operating from the site since at least 1992 without the proper Special Use Permit (SUP) or CUP. On January 21, 2004, City Council approved a CUP for the property to allow for an auto repair facility with conditions. Recently, it was brought to the attention of staff that the property is out of compliance with the conditions of the CUP that was granted in 2004. The conditions of the CUP were identified in your agenda materials.

On April 20, 2010, during an inspection of the site, staff found numerous noncompliant issues. Many of these issues represent a violation of conditions set out in the approved CUP from January, 2004. City Council meeting minutes from January 21, 2004 have been attached for your review as Attach #3. Based on the inspection of April 20, 2010, a letter was sent to the property owner and current tenants that identified the non-compliant issues. A copy of this letter is Attach #1. The property owner was given until May 24, 2010 to comply with the conditions. To date, the property owner has not contacted staff regarding these non-compliant issues.

Noncompliant issues are a frequent occurrence for this particular site. City records reflect that the City has pursued noncompliant issues since at least December 1994. These previous violations were identified in your agenda materials and provide a brief history of the issues at this location.

There have been a few occasions when potential businesses have approached the City to use the site. On February 21, 2007, City Council granted a CUP Amendment, with conditions, to allow Plow World to use the site. These conditions included submitting a surface drainage plan, outdoor storage limited to merchandise related to the business, hard surfacing of storage and parking areas and a detailed site plan was to be submitted. Apparently, the business arrangement with Mr. Kunza did not work out and Plow World opted for another site along Highway 65. There was and remains an extensive amount of work to clean up the site to bring the property into compliance. Mr. Kunza would not sign a CUP Agreement.

On December 12, 2005, potential business owner Brian Renstrom of Central Trailer Sales withdrew a CUP request because he found a different site in the city to conduct business from that did not require extensive cleanup.

On May 18, 2005, Mr. Steve Eliason was denied a CUP and Site Plan Review for the operation of a used vehicle sales and repair shop because he could not meet the requirements to bring the site into compliance.

This property has been the source of numerous on-site visits to assess the non-compliance issues. The current issues are that there is excessive exterior storage on-site and it is apparent that the property is being used as an auto salvage yard. Also, the existing use(s) are not in compliance with the CUP conditions approved on January 21, 2004. These issues are a continuation of circumstances that have plagued this property for more than 15 years. Based on complaints and inquiries for business expansion on this site, staff has exhausted the remedies short of a formal complaint that would get this matter before the court.

Staff has reviewed this situation with the City Attorney and the City Attorney has suggested moving forward with revocation of the CUP granted this property in January, 2004. Staff is seeking guidance e from Council in this regard.

Boyer made a motion to begin process of Conditional Use Permit (CUP) Revocation for Nelson Trucking at 18649 Highway 65 NE, East Bethel, MN. Channer seconded.

Boyer asked the city attorney to describe process of CUP Revocation briefly. Randall said we have to give notice to the property owner that the City has the intention to revoke the CUP and they have the right to have a hearing. He said you may want to have the hearing as a separate meeting. Randall said Council can be the hearing examiner, but in the past we have had someone separate. He said depending on results of hearing, you will have to find that the CUP has been terminated because the terms have not been adhered to. Randall said we can probably have this concluded in thirty (30) days, we will give them a timeline and then we schedule a hearing on a mutually convenient date. **All in favor, motion carries.**

Request for
Quote – Ice
Arena
Lighting
Retrofit
Project

Sell explained that at its January 6, 2010 meeting, the City Council directed staff to prepare and submit a RFP to the Minnesota Department of Commerce Office of Energy Security (OES) for the Energy Efficiency and Conservation Block Grant Program, funded by the American Reinvestment and Recovery Act of 2009 (ARRA). This grant application provided for the replacement of 60 - 400w Metal Halide lighting fixtures with 6LT8 High Bay lighting fixtures at the City's ice arena. A grant application was submitted. The City recently received notification that the City had been awarded the grant to replace the lighting at the ice arena.

A Request for Quote (RFQ) for the lighting retrofit project has been prepared and is provided for Council review and consideration. Staff is recommending written quotes be solicited for this work from lighting specialists. City staff will ensure the vendors will meet the Federal and State requirements of the grant.

The total project cost is estimated at \$16,500 with the state grant of \$10,500, rebate from Connexus Energy of \$4,800 and the City match of \$1,200. The energy savings is estimated at \$5,762 on an annual basis. The City's investment of \$1,200 in matching funds will be recouped within one year.

Staff is proposing this lighting retrofit project begin on or before August 1, 2010 and be completed no later than September 1, 2010. Staff is recommending approval of the Request for Quote for Ice Arena Energy Lighting Retrofit Project and direction to solicit quotes for Council consideration.

Boyer made a motion to approve the Request for Quote for an Ice Arena Energy Lighting Retrofit Project and direction to solicit quotes for Council consideration. Channer said he will gladly second the motion. Boyer said this is a great project. All in favor, motion carries.

Seasonal
Employee –
Public Works

Sell explained that a maintenance worker currently covered under FMLA has requested a six month medical leave of absence from work effective June 9, 2010 per Personnel Policy, Section 7.11. Based on the medical condition and the prognosis, the leave of absence has been approved. Mr. Allen is anticipated to return no later than December 8, 2010.

The City recently received fifteen applications for the two seasonal maintenance positions advertised earlier this year. City staff has reviewed the applications of those not previously selected for hire and has identified several applicants for interview. Staff is requesting direction to interview and make a preliminary offer of employment subject to Council confirmation. The rate of pay would be \$8.85 an hour. Funding for this position is provided for in the General Fund Budget for 2010 under the Parks Department budget. The employee appointed would perform various types of manual labor in the general maintenance duties not to exceed 63 working days.

Staff is requesting approval to review, interview and make a preliminary offer of employment subject to Council approval for a seasonal maintenance position for a period not to exceed 63 working days.

Boyer made a motion to approve the hiring of a seasonal maintenance position for a period not to exceed sixty-three (63) working days to replace Mr. Allen who is on medical leave. Also, to give the Public Works Manager authorization to hire an additional seasonal maintenance position for a total of two (2) if the Public Works Manager determines there is a need for an additional worker to get the work done. Paavola seconded; all in favor, motion carries.

Appraisal
Services –
Utility
Properties

Sell explained that several different sites will be required to accommodate the City's water utility infrastructure. The City's consulting engineer has identified several parcels that will meet the City's requirements.

Prior to any offer/negotiation, the City is required to obtain an appraisal for the properties involved. Staff developed an RFP for these services and has solicited quotes from several appraisal service firms. A copy of the RFP and responses to the RFP were included with your agenda materials.

Staff recommends the appraisal services agreement be awarded to Nagell Appraisal and Consulting in an amount not to exceed \$1,000 with all work and reports completed no later than June 18, 2010.

Boyer made a motion to award the appraisal services agreement with Nagell Appraisal and Consulting in an amount not to exceed \$1,000 with all work and reports to be completed no later than June 18, 2010 for the utility properties. Paavola seconded; all in favor, motion carries.

Resolution
2010-28
Requesting
Additional

Sell explained that at the May 5, 2010 Council meeting, City Council adopted Resolution 2010-20 directing staff to make application to the State of Minnesota for Recovery Zone Economic Development (RZED) Bonds to provide for the financing of the sanitary sewer infrastructure in Project 1 of Phase I. This authorization provided for construction costs only

Authorization
for Recovery
Zone
Economic
Development
Bond

and did not provide for capitalized interest costs and cost of issuance. We have reviewed these items with the City's Fiscal Consultant and have identified capitalized interest costs of \$700,000 and cost of issuance expenses of \$300,000.

The cost of issuance includes preparation of the offering statements, bond counsel opinion, soliciting and receiving a bond rating and marketing. It also includes bond underwriter discounts that allows the fiscal consultant to negotiate a better rate by offering some up-front concessions. Both of these activities are industry standards and result in a fair presentation of the offering as well as a better interest rate.

With these additional costs, the total request from the State of Minnesota would increase to \$6.8 million from the construction/engineering costs estimate of \$5.8 million. The terms of the original request would remain the same.

Staff is recommending approval of Resolution 2010-28 Increasing the Recovery Zone Economic Development Bond Authority Request from the State of Minnesota.

Boyer made a motion to adopt Resolution 2010-28 Increasing the Recovery Zone Economic Development Bond Authority Request from the State of Minnesota. Paavola seconded; all in favor, motion carries.

Tinklenberg
Group
Services

Sell said Elwyn Tinklenberg has requested an audience of Council either June 16th or July 7th to update Council on our appropriation requests. Channer said the sooner we can get an update from him the better. Council consensus was to have Tinklenberg come to a Council meeting as soon as possible and give them an update.

Coon Lake
Beach Update

Paavola said with the holiday weekend there were a lot of boats on Coon Lake and everyone behaved, it was very nice. She said it was good to see beach being used as much as it was. Paavola said the boating was pretty mellow. Hunter asked what have you heard about walleyes being caught. Paavola said there have been a few being caught. She said they are there; you just have to find them. Boyer said he is assuming the weed containers for boaters to dispose of the weeds from their boats are in place. Paavola said the one that is at Coon Lake is in place. Sell said he will check this out with the Public Works Manager and let Council know.

Be Careful for
Pedestrians

Channer said school gets out next week and the kids will be running around. He said he just wants to remind everyone to keep an eye out for them, be a little extra careful. Channer said it is hard to believe another year has gone by. Boyer said yes, it is that time of year. He said he passed four walkers tonight, so he also wants to let everyone know to slow down a little and keep your eyes out for pedestrians.

Adjourn

Boyer made a motion to adjourn at 8:11 PM. Paavola seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk