

EAST BETHEL CITY COUNCIL MEETING

February 17, 2010

The East Bethel City Council met on February 17, 2010 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Steve Channer Greg Hunter
Kathy Paavola Steven 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 February 17, 2010 City Council meeting was called to order by Mayor Hunter at 7:30 PM.**

Adopt Agenda **Boyer made a motion to adopt the February 17, 2010 City Council agenda. Voss seconded; all in favor, motion carries.**

Sheriff's Report Lt. Orlando reported on the custodial arrests/significant arrests for the month of January 2010 as follows:

01-03-10 - False Information to Police / No Trail Sticker / No Safety Certificate - A deputy stopped a snowmobile for a moving violation. The snowmobile had an expired trail sticker. The driver gave his brother's name and date of birth because he did not have a safety certificate. He went to jail.

01-08-10 - 5th Degree Domestic Assault - Deputies were called to a 911 hang up. Upon arrival they found a husband/wife domestic. The female was crying and said her husband had snapped. She advised he had grabbed her hair and swung her head back and forth. The male then hit her on the head twice. The male was taken to jail.

01-11-10 - 5th Degree Domestic Assault - A female called requesting to have her intoxicated husband removed. Upon arrival deputies witnessed the male push the female into a railing, then push her so she was leaning over it, with his hands on her neck. The male was complied with orders from the deputies and was taken into custody.

01-16-10 - 5th Degree Controlled Substance / Felony Warrant - Deputies went to a residence on a warrant attempt. The male that answered the door was not the homeowner, but in checking him, was found to have warrants for his arrest. Subsequently a baggie containing methamphetamine was found on him. He was taken to jail.

01-31-10 - 5th Degree Domestic Assault - Deputies responded to a husband/wife domestic. The female advised she and her husband were having a verbal argument at which time she put out her arm to keep her husband from coming closer. Her husband pushed her arm out of the way and grabbed her sweatshirt. He then head-butted her, causing a small cut to her nose. He was taken into custody.

Lt. Orlando said domestic calls (non-crime) for the month were twenty-one (21) and DWI arrests for this month were four (4).

Sheriff Bruce Andersohn is with us this evening to introduce the deputies serving in East Bethel. Sheriff Andersohn said he wants to briefly say thank you to the City Council and citizens of East Bethel for the opportunity to you. He said according to his records this is our 36th year serving the city. Sheriff Andersohn said we have proof it can be a positive relationship with the city. He said he knows a lot of this is occurring around the State of Minnesota where the police departments are going away and they are requesting sheriff departments provide services for their cities.

Sheriff Andersohn said our new facilities are open and if you want a tour, call and we will take you on a tour. He said the facility is more than we could have hoped for. Sheriff Andersohn said we are now looking for two DNA Scientists. He said we will have an open house soon, we will be advertising the date.

Captain Wells introduced himself. He said Lieutenant Orlando will introduce the 2010 East Bethel Deputies. Lieutenant Orlando introduced the 2010 contract staff as follows:

Chris Beck is working the A shift from 6:00 am to 2:30 pm. He has been a deputy since January 1997. This is his fifth year working the East Bethel contract. He is a field training officer and a SWAT team member.

Luke Christofferson is working the A shift, day power split. He has been a deputy since January 2005. This is his third year working the East Bethel contract. He is a certified advanced diver for the ACSO dive team and a certified Ice Water rescue technician. He is also a ATV Safety Instructor and Explorer Advisor.

Travis Wold is working the day power shift from 11:00 am to 7:30 pm. He has been a deputy since October 2005. He is in his second year in the East Bethel contract.

Sean Merritt is working the B shift from 2:00 pm to 10:30 pm. He has been a deputy since January 2002. This is his first year in the East Bethel contract. He is a former reserve officer from 1998 to 2002. He is also a Taser Master Instructor.

Jessica Zimmer is working the B shift, night power split. She has been a deputy since September 2008. This is her first year in the East Bethel contract. She is a former detention deputy with ACSO.

Ryannaon Ninow is working the night power shift from 7:00 pm to 3:30 am. She has been a deputy since September 2008. This is her first year in the East Bethel contract. She is an Explorer Advisor. She is also a Captain in the MN National Guard and commands the 682nd FSC.

Eric Donarski is working the C shift from 10:00 pm to 6:30 am. He has been a deputy since November 2004. This is his third year working the East Bethel contract. He was a deputy with Hennepin County SO for six years. He is a ATV instructor.

Amber Peterson is working the C shift split between East Bethel and Ham Lake contracts. She has been a deputy since September 2008. This is her first year working the East Bethel contract.

Hunter thanked the 2010 Anoka County Sheriff's staff for serving East Bethel. He said this

is a tough financial decision. Hunter said you have six extra eyes watching you, we appreciate what you do for us.

Introduction of Fire Dept. Officers

The Fire Chief is with us this evening to introduce Fire Department Officer staff for 2010.

Mark DuCharme, Fire Chief thanked City Council for inviting the 2010 Fire Department Officers to the meeting to be introduced. He said it is his pleasure to introduce the officers.

Arden Anderson, Deputy Fire Chief, and he is not sure if I am his right hand or if he is mine. He said he gives me tremendous input.

Dan Berry, District Chief Station Two, and he runs the station two crew. He is also really involved in Booster Day and the Fire Fighter's Dance.

Todd Bennett, Captain Station Two, he runs the crew and is a great help and actually helps in station one personnel and projects.

Mark Prachar, Captain Station One, this is his first term.

Gary Schultz, Lieutenant, Station One, he is a new lieutenant.

Bill Hunt, Lieutenant, Station One, he is involved in the everyday things with the fire fighters, line officers, and intimately interacts in emergency scenes.

Tammy Gimpl, Lieutenant, Station Two, she is newly appointed and she is involved in a lot of things. She is very involved in the new explorer program.

Mark Duchene, Fire Inspector, you read his fire reports monthly, he is very part time he only puts in about 16 hours a month on inspecting but visits a lot of businesses.

Chief DuCharme said he has two officers that couldn't make it. Ron Stanley, District Chief, Station One, and Rodney Sanow, Lieutenant, Station Two. He said he also wanted to announce that Mark Prachar and Tammy Gimpl have been accepted to study at the National Fire Academy. Chief DuCharme said only 1% can attend the academy on the federal governments' dime so it doesn't cost us anything. He said Prachar is out there for a week and Gimpl for a couple weeks. Chief DuCharme said it is a great honor, a great experience. Prachar will study leadership and administration and Gimpl will study juvenile fire setters, this is a diversion project and juvenile fire setters has been a big problem in this country.

Hunter thanked the 2010 Fire Department Officers. He said he knows you are members of our community and have other jobs and are very busy. Chief DuCharme said when we are done here we are going back to station one, we are in training right now.

Public Forum

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.

Wild Rice Drive Tree Removal Within City Easement –

Sell explained that reconstruction of Wild Rice Drive will begin in the spring of 2010. All construction will be performed within City owned ROW and/or easements. Provisions and/or limitations of previously acquired easements along the construction route do not include language that specifically provides for tree removal within these easements. When trees are not specifically acquired as part of the easement, Minnesota Statute 160.22 requires

Public
Hearing

that a hearing be conducted that provides property owners of the abutting land an opportunity to be heard. This hearing is required because Wild Rice Drive is an MSA roadway. The tree removal is proposed in those areas where they interfere with the reconstruction of Wild Rice Drive or if they interfere with the safety of public travel. There are a total of 13 owners affected by the tree removal. Staff provided owners written notice of the hearing in a letter dated February 5, 2010.

The process for the hearing would be as follows:

1. A brief opening statement as to the purpose of the hearing.
2. The Mayor should announce that anyone wishing to be heard must step to the podium, and state their name and address for the record.
3. The Mayor should open the hearing.
4. Public comment is taken.
5. When public comment is completed, a motion to close the hearing should be offered.

Once the hearing is closed Council may discuss the comments. A resolution will be before Council under Agenda Item 9.0 A.1 to consider directing the removal of trees from the construction area.

Staff recommends conducting the public hearing to allow owners adjacent to City easement along Wild Rice Drive to be heard regarding tree removal.

Hunter opened the public hearing. Robert Nyes of 20305 Jewell Street NE asked will all the trees within the 40 foot limit be taken out. He asked does this mean that his pines and blue spruce will be taken out. Jochum said no, those will be saved, but once we stake it they might need to be trimmed. He said it will be a shallower or nicer ditch. Nyes said he called last year and they said they would be done by December. He said then he found out it would not be done until this year. Nyes said his wife has flowers in there and if they would have been notified it wasn't getting done until later, they would have been able to get them out. He said they are right on the corner of Jewell and Wild Rice. Jochum said any landscaping we are disturbing we are restoring. He said the reason for the delay was right of way needed on the south end. Nyes said again if they would have told us this last fall we could have gotten these out. He said we could have salvaged this.

Gloria Pederson of 19923 Wild Rice Drive NE said we live on the east side of the road. She said we have a white oak tree in our front yard and it is the only one left. Pederson said it is about 43 feet in off the road. She said we just paid someone to take one out last year that we lost to oak wilt. Hunter asked is it in the right of way. Pederson said it is about 43 feet from the right of way. Jochum said at your actual parcel we are putting curb and gutter in to save the trees. He said the two trees we are taking are just north of your driveway, the two closest to the road. Pederson said the ones 43 to 45 feet from the road. She said this is just one we need to save the other has oak wilt. Pederson said it is right next to the driveway. Harold Peterson said they are on the north side of the driveway. Jochum said he believes it could be saved, we would have to slope better. Gloria Peterson said we also would have to get our gardens out, we will have to try to get it out. Jochum asked them for their number so they could discuss some options.

Laura Gerdes of 20134 Wild Rice Drive NE said we are on the corner going around. She said we are losing property and trees, at least ten large oaks and pines. Gerdes said the oaks are about 45 feet from the center line and she is wondering about coming around the curve

where there is a power line and cable box how far are those going to have to come up in our property. Jochum said your lot has a clump of trees that probably have to come up. He said your ditch slope would become so steep you wouldn't be able to mow it, we are trying to take care of the flooding issue there in the spring. Jochum said we can look at this clump to see what we can do. He said he is aware that you currently mow that. Gerdes asked what about the telephone line, will that come further into our property line. Jochum said he doesn't know, but he doesn't think so. Voss said it should be okay. Boyer said they usually are placed where they belong. Gerdes asked once this project is said is done, if there is another project that comes through will you continue to come in and take property. Voss said just so you know planting flowers and such, most cities don't let you do that in the right of way, the City is not taking your property. Gerdes asked is the City granted more property when doing this project. Boyer said the City would have to buy your property to do that. Jochum asked all the property owners that spoke tonight to give him contact numbers so they can discuss any issues further.

Boyer made a motion to close public hearing. Voss seconded; all in favor, motion carries.

Boyer asked can staff have the comments as part of the resolution. Sell said they will be in the minutes. Voss said so what he hears is we are not doing a blanket clearing. Jochum said yes, we are not doing a blanket clearing. He said we are doing what we can to save trees, etc., but we are fixing drainage issues, sloping issues, etc. Jochum said we are taking trees to get our clear zone. He said according to state aid we need clear zones. Jochum said you wouldn't if you had curb the whole way, then it goes down to two feet. He said if it is a rural section it is 32 feet. Boyer said it strikes him that is it is cheaper to put curb in then clear a bunch of trees. Jochum said there is more cost with storm sewer, etc.

Voss asked what are we talking about for trees. Jochum said there are some oaks and others. Hunter said that is all swamp. Voss said if we clear it, it will all come back. Jochum said we need to do this to meet state aid rules. Channer said it is for safety. He said it is for vehicles that leave the road. Channer said it is for snow storage. He said it is calculated engineering. Channer said it is worse on curves than straight roadways. Jochum said they think drivers are more aware when there are curves. Voss said obviously this is the city's property, so we need to make the decision.

Hunter asked this is the first public hearing we have had on this, he doesn't remember ever doing this. Channer said if the public easement document doesn't state trees, etc., then you have to have a public hearing. Randall said when he drafts easements he always puts in wording about the right to clear trees and brush, etc. He said we are doing some research on this, such as does this give us the right clear trees, brush, etc. Randall said apparently there is a case on this, we are looking for it. Channer said after reading the research, having the hazard it is a different story, but you still have to have the hearing.

Hunter said so here is an example from the past. He said we did a project over by where Council Member Voss lives. Hunter said we cleaned up his trees in the easement, didn't we have to have a public hearing on that. Randall said it is a good policy to do this. Hunter said he thinks it would be good to do this all the time. He said but it bothers him that we have bid this job and now we are having a public hearing.

Hunter said also we need to do a better job of letting the residents know what is going on. Channer said this is the first time he has heard of this. He said it depends on the way we

acquired the road, whether an easement or fee. Hunter said this doesn't seem like it was done in sequence for him. Boyer said he thinks it is a good idea whether we need to do it or not, it is a good thing. Hunter said yes, but when we let a job he wants this done already. He said he wants this done before the job is let. Paavola said yes, we want to make sure things are right before the job is let. Boyer said yes, his understanding is this thing was going to be in before 2009 it has been a little cursed from the beginning. Jochum said the process we used in the past is we marked them and then we met with people individually and discussed it with them. He said he stumbled past this statute and most engineers probably don't know about it. Voss said in the past you did it a different way, but in the future we want them to come to council and be heard by council. Boyer said if we get a new engineer in 10 years, maybe the engineer won't want to do this. Channer said it is important to know your property boundaries, because if you put your sprinkler outside your property boundaries it is at risk. Sell said if it is in the right of way, it is at risk.

Potentially
Dangerous
Dog –
Shannon
Batson –
18164 Hwy.
65 NE, Lot
175 - Hearing

Sell explained that Pursuant to City Code Chapter 10, Article II. Dogs, Division 3. Section 10-72(c) (2), the animal owner, Ms. Shannon Batson, was notified of her right to appeal the City Administrator's determination that a dog involved in a dog bite incident, is potentially dangerous. Ms. Batson did not request a hearing within 14 days of the date of the notice provided.

However, the City Council has the obligation, based on the facts before the Council, whether or not the determination of a Potentially Dangerous Dog should be maintained, modified or removed.

The Anoka County Sherriff's officer reported that Justin, the three year old son of Ms. Shannon Batson, had been bitten by their family dog. Officer Wold observed a small cut on the inside of the Justin's nose. Paramedics treated Justin on site and released him back to Ms. Batson.

The city animal control officer removed the dog from the property due to the lack of current vaccination record and no current dog license. The animal was quarantined for a period of three days until the animal control officer verified that the dog had current vaccinations and a city issued dog license. The animal was released to the owner after rabies vaccination and licensure were verified.

The incident was unprovoked and it is now sufficient to issue a "Potentially Dangerous Dog Notice" pursuant to City Code Chapter 10 Art. II Division III, Potentially Dangerous and Dangerous Dogs. Staff has included a copy of the incident report with your agenda materials.

The City Council pursuant to Section 10-72 has several obligations and options regarding this matter.

1. Discuss why the potentially dangerous dog determination should be lifted or sustained.
2. If the potentially dangerous dog determination is sustained, identify the action to be taken:
 - a. dispose of the animal, or
 - b. allow the owners to keep the animal with restrictions.
3. If the potentially dangerous dog determination is not sustained, make a determination that the animal is to be released without further action from or by the City Council.

We outlined in your agenda materials the requirements for Council consideration should the potentially dangerous dog determination be sustained.

City Staff seeks a determination from Council regarding the potentially dangerous dog determination in this incident pursuant to City Code, Chapter 10, Animals, Article II. Dogs, Division 3.

Sell said he received a call from a council member asking for additional information about the quarantine of the particular animal. He said we received that information from the animal control officer and he passed that information out to council tonight. Sell said he doesn't believe the animal owner is present tonight, she was given a letter indicating the council would make a determination at tonight's meeting. Boyer asked how old dog is. Hunter said about eight years old.

Hunter said this is one of those things, if the animal owner feared enough to call the police she has some reservations, but this is a three year old, a deposition of a three year old? Boyer said what he doesn't understand how he got a cut inside his nose. He said you can get a cut like this from bumping into a dog. Voss said he think he conveyed this story before but he had a lab, and his three year old bumped him and in a flash the dog nipped the child. He said he doesn't see anything here that there was an attack. Voss said he doesn't understand why they called 911 to begin with. He said this is different then the ones we have had before. Sell said you don't get much information from the police report, however, whenever there is a police report we need to take action. Voss said it doesn't even sound like the child was bleeding. Boyer asked it was the dog owner that called the police. Sell said that is his understanding. Voss said he can see from this, it is a young parent and he can see a young parent reacting in such a way. Paavola said yes, she probably got scared. Sell said the dog is back home and there hasn't been an incident since then. Voss said so we just don't act on it. Sell said you have to take some type of action.

Hunter made a motion to determine the animal owned by Shannon Batson at 18164 Highway 65 NE, #175, East Bethel, MN, as a potentially dangerous dog unless there is another issue within 24 months and stay all requirements except 8) That the owner must allow a compliance official on the owner's property to conduct a site inspection within 14 days of determination of potentially dangerous dog by the City Council. Voss seconded; all in favor, motion carries.

Consent
Agenda

Voss made a motion to approve the Consent Agenda including: A) Approve Bills; B) Meeting Minutes, February 3, 2010, Regular CC Meeting; C) Res. 2010-09 Approving an Application with No Waiting Period for An Exempt Permit for Cedar Creek Community School PTO to Hold a Raffle; D) Appoint Regular Full Time Employee; E) Res. 2010-10 2010 G.O. Water Revenue Note Issuance and Sale. Boyer seconded; all in favor, motion carries.

Planning
Comm
Minutes
Park Comm
Minutes

Sell explained that the unapproved meeting minutes from the January 26, 2010 Planning Commission Meeting are provided for your review and information.

Sell explained that the unapproved meeting minutes from the January 13, 2010 Parks Commission meeting are provided for your review and information.

Booster
East/Cedar

Sell explained that Parks Commission recommended approval of the first phase of the Booster East to Cedar Creek Trail on August 12, 2009. Phase I begins in Booster Park East,

connects to 224th Avenue and then to Xylite Street. This segment is reflected on Attach #1.

The trail follows Xylite Street to 222nd Lane to Bataan Street as reflected on Attach #2. The trail then follows Bataan Street to 229th Avenue to the University of Minnesota property as reflected on Attach #3.

The trail alignment was presented and reviewed by City Council on September 2, 2009, September 16, 2009 and again on October 7, 2009. City Council directed that the 2010 Trail CIP projects move forward as presented including the Booster Park East to Cedar Creek trail, Phase 1 portion at the October 7, 2009 meeting.

Since the October meeting, staff has developed the specific trail alignment maps such that all necessary easements and/or ROW is identified. The easements/ROW requirements are reflected on Attach #1 - #3. Staff is requesting direction to proceed with negotiation for necessary easements/ROW.

Following the negotiation of easement/ROW agreements, the agreements will be returned to Council for approval.

If Phase 1 is scheduled over a two year period, 2010 would include the trail across the Oney easement and 224th Avenue to Xylite and, 2011 would include Xylite to 222nd Lane to Bataan Street, the costs can be managed within budget. It is recommended that engineering for this entire segment, Booster East to Bataan Street, be included in the 2010 budget for this project as it more cost effective to perform the survey and related design work at the same time. The project costs for phasing this project over a two year period was detailed in your agenda materials with \$99,000 in 2010 from the Trail Capital Fund; \$87,000 in 2011 from the Trail Capital Fund; and \$271,000 from the MSA Fund for 2010. Final Plans and Specifications for the 2010 and 2011 projects will be returned to Council for review and direction to solicit bids.

Consider directing staff to negotiate easement agreements for Phase 1 of the Booster Park East to Cedar Creek Trail project and the MSA Funded project along Bataan Street.

Sell said there was some questions regarding bicycling traffic. He said he provided information on this. Sell said there are two specific statutes that reference these types of activities. He said he asked Lieutenant Orlando to stay to answer any questions on enforcing bicycles driving against or into traffic.

Boyer said he thinks the City has the authority to decide what a bicycle lane is, how they travel, etc. He said he thinks the real issue is three feet opposed to eight feet, it would be better to have six feet on each side. Boyer said walking in a space of three feet is not comfortable to him. He said it seems to him that eight feet is more comfortable to him, put it on one side.

Voss said for one we are not talking about a very busy street, it is not just bikes, it is also walking. He said as parents we teach our kids to walk against traffic and bike with traffic. Voss said we are not talking about a separate path, we are talking about a four foot stripe of paint. Boyer said he couldn't disagree more. He said if you have nothing currently, then you have eight feet on one side, they are going to use it. Boyer said the neighbors at the meetings complained about the speed the drivers were doing. Voss said eight or nine feet of paint is not going to stop the speeding. Voss said the City is telling kids it is a painted lane,

he is not feeling safe with this, it isn't going to happen.

Channer asked what the crown there is. Jochum said 2%. Channer said we are going to cause a dangerous crown for the cars there, we have to shift the lane there. Boyer said we have done it on East Bethel Blvd, Durant Street, etc. Channer said the crown of the road is there partly for drainage, but also for driving. He said if this was a straight road he wouldn't have a problem with it, but with the curve and the eight foot path we have made the road more dangerous. Channer said if we are not going to buy right of way, we have to go with the two trails it is safer for the vehicles and the pedestrians. He said if it is raining, we will have cars straddling each side. Channer said it is not safe. He said from an engineering perspective that is how he feels. Channer said we are changing the road too.

Sell asked did we take a look at this, grade separated trail and what the cost would be. Jochum said we didn't look at cost to acquire more right of way. He said it would also require storm water drainage. Jochum said he thinks we could make the drainage work. He said most of the roads designed in the past were designed with a profile of 6/10ths. Jochum said he doesn't know the number off hand. Sell asked would curb and gutter be required the entire length. Jochum said probably. Sell asked even down Xylite. Jochum said probably. Sell asked even down 222nd. Jochum said maybe not. Voss said this was talked about at parks, one side, two sides. Boyer said and if he had to guess at the vote it was a 5/3 split. Voss asked what the debate was. Boyer said it was hardly discussed at last meeting.

Sell asked would it make sense to go back and look and see if it would make sense to put in curb and gutter. Voss said in terms of trying to establish a trails system and prudently use our funds to establish this, these are routes that are hardly used in our City and these funds could be used somewhere else in our City where trails are needed more.

Boyer said we already had this discussion. Voss said he is in favor of drawing lines on the side of the road. Boyer said we already have a separated trail on 229th. He said the University is giving us the right to build a trail on 229th. Voss said so you want to waste our money on this other trail instead of waiting to spend it on the other trail. Boyer said so you are going to tell me kids are safer on a road with a two foot shoulder. He said people will drive to this trail to use it. Boyer asked where people are supposed to walk right now if two cars come right now on this road. Voss asked you think this street has that much traffic right now. Boyer asked what the traffic count on this street is. Jochum said 380 ATD.

Boyer made a motion to direct staff to move forward with negotiations for necessary easements/ROW for an eight foot preferably separated trail for Phase 1 of the Booster Park East to Cedar Creek Trail through the section on Xylite and 222nd on the north side. Hunter seconded. Voss and Channer, nay; Boyer, Hunter and Paavola, aye; motion carries.

Contract
Addendum
No. 4 to City
Engineer
Agreement for
Booster East/
Cedar Creek
Trail

Sell explained as required by the Engineering Service Contract between the City and Hakanson/Anderson the City Engineer has prepared a Contract Addendum to identify for Council the cost for engineering services for Cedar Creek trail project. The amount quoted in the addendum is a not to exceed amount. Total engineering services will be \$62,592.00 for this project. The contract addendum is included as Attachment 1.

This Project, City Project 2010-01, includes the construction of a trail from Booster Park to 229th Avenue. Work to be performed includes project design, survey and staking, plans and specifications, advertising and bidding, bid evaluation, construction supervision, contractor

payment verification, project close out, preparation of State Aid documents, draw requests, obtaining quotes for sub-contractor services, as built drawings and facilitating easement acquisition.

The proposed Addendum #4 is in the amount not to exceed \$62,592. As presented in the addendum the City will also be responsible for other costs including appraisals, soil borings and material testing. These costs are estimated at \$11,600.

Staff is recommending approval of Addendum #4 to the Contract for City Engineering Services dated September 3, 2008.

Boyer made a motion to approve Addendum #4 to the Contract for City Engineering Services dated September 3, 2008 in an amount not exceed \$62,592. As presented in the addendum the City will also be responsible for other costs including appraisals, soil borings and material testing, these costs are estimated at \$11,600. Voss seconded. Hunter said this is just what we were just talking about, right, wouldn't it be prudent to table this if there will be more costs, if there is a separated trail. Jochum said it is a not to exceed. **All in favor, motion carries.**

Tinklenberg
Group Work
Program
Presentation
and
Agreement

Sell said Tinklenberg called him and indicated he couldn't be here until 8:00 p.m. He said he was in a meeting with Oberstar. Sell explained that over the past two years, the City has contracted with the Tinklenberg Group for representation services, on the City's behalf, regarding potential funding of various public works projects. Unfortunately, the City has not been successful at the federal level in its efforts to obtain federal funding for utility infrastructure, highway or trails.

Part of the issue has been our inability to convince our Congress person to sponsor legislation in support of these efforts. She has made it this clear on a number of occasions that she will not support any direct appropriation or ear-marked for these types of projects.

In an effort to secure funding, the City has secured the services of the Tinklenberg Group. The proposed agreement attached to this item provides specific direction to work at appropriation requests for several specific projects/programs that include a corridor study for Trunk Highway 65 and trail study/construction funding for City/County/Inter-county trails.

Following Mr. Tinklenberg's presentation and Councils questions, an agreement for services should be considered. Funding for the agreement is suggested from several sources within the General Fund to include City Council, \$14,000, appropriation for 2010 for this purpose; Contingency, \$7,500, funds not specifically allocated for any other expense; and, Additional Revenues, \$4,500, from the agreement by the City HRA to reimburse the City for administrative expenses in the amount of \$15,000. The total agreement would be for \$25,000 including all expenses.

Staff is recommending approval of the agreement with the Tinklenberg Group in an amount not to exceed \$25,000 for services to present and secure funding for public works projects.

Elwin Tinklenberg said he apologizes for being late, he was at an event that was important to what we are talking about tonight. He said most importantly are the federal funding programs being considered in Congress, a number of the programs aren't just considering traffic counts, but they are being extended to economic growth, livability, etc., and it speaks well to the economic issues in East Bethel. Tinklenberg said the funding is to enhance

systems, hiking and biking trails, natural resources, natural infrastructure and some other grant programs. He said everyone is looking at transit and trails. Tinklenberg said the 2011 authorization cycle will be soon underway, and some applications are due this Friday. He said re-appropriation is being considered this year. Tinklenberg said these all represent opportunities. He said he wouldn't be honest if he didn't tell you we don't know where these bills will all shake out. He said all of this takes a lot of time. Tinklenberg said in 2012 there will be redistricting. He said we might have one less congressional seat. Tinklenberg said if we are developing these projects now and getting them in the pipeline, we might be able to move forward. He said we will not spend your money on anything were we don't think there is not a reasonable expense.

Channer asked how many other cities their firm represents. Tinklenberg said three others. Hunter thanked Tinklenberg for coming. He said he appreciates his efforts in the past and what he has done for us in the past. Sell said with that staff is recommending approval.

Voss made a motion to approve the agreement with the Tinklenberg Group in an amount not to exceed \$25,000 for services to present and secure funding for public works projects. Funding for the agreement will come from the following sources within General Fund to include City Council, \$14,000, appropriation for 2010 for this purpose; Contingency, \$7,500, funds not specifically allocated for any other expense; and, Additional Revenues, \$4,500, from the agreement by the City HRA to reimburse the City for administrative expenses in the amount of \$15,000. The total agreement would be for \$25,000 including all expenses. Boyer seconded; all in favor, motion carries.

Road Comm. Minutes Sell explained that the unapproved meeting minutes from the January 12, 2010 Roads Commission meeting are included for your review and information.

2010 Roads Capital Improvement Plan Amendment Sell explained that City Council approved the 2010-2014 Street Capital Improvement Program (CIP) at the October 7, 2009 Council meeting. The CIP provides for certain road improvements including seal coating and crack sealing streets as outlined in your agenda materials. The Street Capital Budget for these projects is \$245,000.

With continued lower pricing for street improvement and maintenance services, and, the proximity of several streets to approved projects, the Roads Commission is suggesting that 219th Avenue, Fillmore Street, 225th Avenue, 226th Lane and Yancy Street be added to the project list for 2010 improvements.

The Street Capital Budget for these additional projects is \$88,000. If these projects are approved, the budget for the total JPA projects would be \$333,000. Funds are currently available in the Street Capital Budget for these additional projects. We have provided a revised CIP Funding Analysis as Attach #2.

Staff is suggesting that the 225th Avenue, 226th Lane and Yancy Street projects be moved from the 2011 project list and that the 219th Avenue and Fillmore Street projects be moved from the 2012 project list and that these four projects be moved to the approved 2010 Street Capital Improvement Project list. These changes were reviewed by the Roads Commission at their February 9, 2010 meeting and recommended for approval.

Voss made a motion to move 225th Avenue, 226th Lane and Yancy Street projects from the 2011 project list and that the 219th Avenue and Fillmore Street projects be moved

from the 2012 project list to the approved 2010 Street Capital Improvement Project list for a total JPA Project cost for 2010 of \$333,000. Paavola seconded. Boyer said he assumes that if the costs comes in more than anticipated, these will be the first projects dropped off the list. Voss said we have a budget, we are not changing the budget. Sell said yes, if the bids come in over \$333,000 we will back in before you. **All in favor, motion carries.**

Res. 2010-11
Direction
Removal of
Trees in City
Easement
Attorney

Sell explained that reconstruction of Wild Rice Drive will begin in the spring of 2010. All construction will be performed within City owned ROW and/or City easements.

Easements and ROW that were acquired along Wild Rice Drive prior to this construction project that did not include language providing for tree removal within the ROW and/or easement can only be removed following a hearing. This hearing requirement is provided for in Minnesota Statutes 160.22. When trees are not specifically acquired as part of the ROW and/or easement or the project is on an MSA roadway, Minnesota Statute 160.22 requires that a hearing be held to give the owners of the adjacent property an opportunity to be heard.

Earlier, Council conducted the required hearing regarding removal of trees within the City ROW and/or City easements along Wild Rice Drive. After the hearing but prior to removal of any trees the City must serve notice to the abutting owners of its determination of the tree removal. The attached resolution, if adopted, will serve as the determination and a copy will be provided to all affected owners.

Staff recommends adoption of Resolution 2010-11, Determination of Tree Removal within City Easements for Wild Rice Drive, and directs staff to serve notice to the affected property owners regarding its determination of the tree removal.

Voss asked what this resolution really says, what does it mean. Boyer said it goes with the rationale of why we are doing it. Jochum said this resolution as drafted, says the trees will be removed to finish the process. Voss asked where the determination is. He said we haven't been provided a document that says what trees are coming down. Jochum said they were presented on the plans you approved. Voss said we don't get the whole set. Hunter said we got plans that showed this.

Voss said if we get a resolution like this, we should get a drawing with this. Hunter asked does this go to the residents. Sell said yes, but there will be a cover letter that goes with it. Voss said if he was a resident, he would want a drawing so that he could see a drawing with their tree on it. Jochum said each of them got an individualized letter already. Paavola said when they got up and made their comments, Jochum told them he would discuss this further with them and took their number, will that be in their letter. Jochum said yes. He said he can put that in their letter. Channer said this resolution is just bookkeeping. He said the resolution says we had the public hearing and people were heard. Boyer said he is just putting himself in the people's shoes, they were here tonight and then he gives them this letter that doesn't really say anything. Paavola said she was hoping that if they spoke tonight, Jochum will acknowledge that in their letter that goes out to them with the resolution.

Voss made a motion to adopt Resolution 2010-11 Directing Removal of Trees in City Easement. Paavola seconded; all in favor, motion carries.

Hunter asked will there be weekly meetings on this. Jochum said there is a precon meeting next week. Hunter said what about meetings with the residents. He asked can we have a meeting with the residents. Hunter said he likes those. He said was involved in this in Ramsey, he was a contractor, but he saw the residents that were involved and it made him feel like the property owners were getting some extra information. Jochum said we can do this, no problem. He said he can do it weekly, whatever. Voss said all you need is one night, then let them know how to contact Jochum.

Castle
Towers/
Whispering
Aspen
Boundary/
Fence Line
Update

Sell explained that the City Attorney will have updated information for Council regarding this issue on Wednesday. He has been working with the Castle Towers (Bethel Properties) Attorney, Mr. Speeter, to bring this matter to closure.

Randall said he is happy to say we have a verbal understanding with Mr. Speeter that payment to the City has to be made right now. He said Mr. Speeter wanted to have a written escrow agreement, he sent it to Randall it does provide for a closing date. Randall said as soon as he gets it reviewed he will send it to the City Administrator. He said hopefully it will be wrapped up in 20 days from Friday or Monday.

2010 JPA Seal
Coating and
Crack Sealing

Sell explained that several Anoka and Hennepin County cities have entered into a Joint Powers Agreement for the purpose of joint bidding for certain street maintenance services. This Joint Powers Agreement allows smaller cities to achieve more economies of scale in the bidding process and potentially achieve lower bids from contractors for crack sealing, seal coating and striping. The City East Bethel joined the group in February, 2008.

The City of Coon Rapids is the lead agency by the agreement for this group. As the lead agency, they draft the specifications, solicit bids and provide the necessary documents for member cities to sign to participate in the program. The agreement is structured such that it permits each member city to accept or reject the bids for their portion of the proposed contract. Each city will pay the contractor directly for their share of the work. The process for the city was outlined in your agenda materials and includes identifying quantities, soliciting bids and awarding bids. The program has allowed the city to save nearly 40% over previous bids for similar services.

Projects for 2010 were identified in your agenda materials and are part of the 2010-2014 CIP. Services include crack sealing, seal-coating and lane striping. The estimate for seal coating and crack sealing the above listed streets is \$333,000 including the four additional projects provided for in the amended Street CIP. \$292,000 has been identified in the Street Capital Fund and \$41,000 in the MSA account for these projects. Crack sealing and striping are provided in the 2010 General Fund Street Maintenance budget.

Roads Commission recommends approval of the projects identified above including the additional work from the amended 2010-2014 Street CIP.

Boyer made a motion to approve the 2010 JPA for Seal Coating and Crack Sealing in the amount of \$333,000 as provided for in the amended 2010-2014 Street CIP. Funding will be provided for \$292,000 Street Capital Fund and \$41,000 MSA Construction Account for these projects. Paavola seconded; all in favor, motion carries.

Code
Enforcement
Report

Sell explained that the code enforcement report was included for your review and information. Boyer asked about 22906 Jackson Street, what is happening, this does not seem to be an updated report. Voss said he thought we gave them until May or June. Boyer

asked can we update this on the code enforcement report then. He said we are making some progress. Sell said tomorrow morning the judge will rule on two more on this list.

Fire
Department
Reports

Sell explained that Fire Department reports for January are included for your review and information. Hunter said he saw in the minutes that Channer was going to bring up an issue. Channer said yes, the fire fighters are doing traffic control at these events while deputies are watching extrications. He asked what we should do to address this issue. Sell said the issue has been brought to the attention of the Fire Chief and he has spoken with Lieutenant Orlando. He said he asked her to either provide our people with training for traffic control or get her people out there since they are trained. Sell said or if we are fortunate out there, get the Highway Patrol out there. Boyer said whether we train our people or not, he has to believe their people would be better because they are always doing it. He said this came up during the Fire Department meeting. Voss said we need to get some training session out of this too, deputies and fire fighters both there. Sell said we will get it figured out.

Hunter said he sees on the inspection list of businesses there is a third inspection of a business and there is still a violation, what is the policy on that, and should there be some kind of charge for further inspections, etc. He said he thought we had done something about this. Hunter asked staff to check on this.

ISTS Survey –
Coon Lake
Area

Sell explained that staff has had several discussions with the Public Facilities Authority (PFA) regarding the potential funding of the City's municipal infrastructure, water and sewer. One of the issues they have identified is the evidence that sewer systems are failing and causing issues. Or, that drinking water from private wells does not meet current drinking water standards for whatever reason. PFA has indicated, and MPCA has concurred, that without specific data, it is unknown how many systems are actually failing and/or causing a problem. They have suggested a system by system survey to make that determination. They have also suggested that should it be discovered that the "majority of systems" are failing, grant monies might be more readily available to fund municipal improvements to eliminate the problem systems.

The recent survey of household income and household size triggered grant monies for the new well at Whispering Aspen. The unsafe drinking water from the original well had already been established. However, based on the household size and household income, PFA determined that the City would be eligible for funding up to 80% of the project cost.

It is clear that a survey of systems that may be affected by municipal services will be required at some point in time to trigger grants and/or low interest loans for these projects from the PFA. During this period of time when inspection activity is slower than normal, it would seem now is the time to tackle this project to determine the adequacy of individual on site sanitary sewer systems and private wells.

We have an employee that is qualified and capable of doing the inspections and making the determination as to whether or not systems are adequate or failing. The entire area around Coon Lake and those areas along County Road #22 would be included in the study area. A specific map of the area to be surveyed will be provided and included with any agreement with Bolton and Menk, Inc. This project would take about one year and would provide the necessary data for MPCA and PFA to make decisions regarding the funding, grants or loans, for these projects.

The cost of this survey is eligible for funding from the HRA Grant from the County as it

goes to the heart of the issue for septic systems and wells in the Coon Lake area.

We have discussed this survey/data collection with the City's municipal utility engineers, Bolton and Menk. The project would be through an Agreement with Bolton and Menk. Simply, Bolton and Menk would contract with the City for survey/data collection services where in Bolton and Menk would reimburse the City for City costs. In turn, Bolton and Menk would bill the City and the City would submit the claim to the County HRA for reimbursement as we have for all project costs to date. We have discussed this in concept with Mr. Kreg Schmidt from Bolton and Menk and they are willing to move forward.

Staff is seeking direction to move forward by developing an agreement for Council consideration wherein the City will provide survey/data collection services to determine the adequacy of ISTS and private wells around the Coon Lake basin. Any agreement would be returned to Council for final approval.

Staff is seeking direction to proceed with development of an agreement for survey/data collection services with Bolton and Menk, Inc.

Boyer said he is all in favor of this, but it seems rather intrusive. Sell said he asked the city attorney about this. Randall said a statute was cited by one of the local municipalities that you could enter under 117.041, and that is fine under imminent domain proceedings, if not, that statute will not cover us. Hunter said he understands, but this information will not be made public. Voss said in terms of water quality, which has to be public data. He said if anyone finds out the impacts to water in the state it has to be public. Voss said but we are looking for the information to get funding to fix this.

Paavola said she lives over there and she is asked many times when is the sewer coming. She said she doesn't have an answer when is it coming. Paavola said when we are looking at \$40,000 or more to hook up we can't afford that. She said she knows we are looking at failed systems. Paavola asked what about the holding tanks. She asked are they being taken care of the way they are supposed to be. Paavola asked are they being pumped the way they are supposed to be. Boyer said he appreciates this, but there are going to be a lot of upset property owners if we want to just go on their property. Voss said there is a broader issues here. He asked why can't we just get water samples, whether from wells or from around the lake. Sell said this doesn't satisfy PFA's requirements. He said PFA's requirements are more stringent than this.

Voss said the sticky question is to go through a survey, identify sewer systems that are failing, then what. Sell said he has no problem going back to the PFA and telling them this isn't going to work under current statutes, we need something else. Voss said if there are 400 individual wells and 300 have water quality impacts, there are broader issues there must be something easier to do. Sell said then there is the problem. Voss said if there are reasons, we can find them out. Sell said we will work on this and get it back to you. He said before we start on anything we will get back to you on this. Boyer said we don't want to get ourselves in a mess. Voss said the county does a water test program every year.

Booster Day
Weekend –
Friday Fun
Night Events

Sell explained that the City of East Bethel recently celebrated its 50th Anniversary. As part of that celebration, the City sponsored a Family Fun Night on Friday, July 17, 2009. Events included a Kiddies Parade for toddlers to age 12, a demonstration by the K-9 Unit from the Sheriff's Department and a "Movie in the Park" event. Several organizations co-sponsored these events to include the East Bethel Royalty and the North Suburban Area Chamber of

Commerce. Boy Scout Troop 733 hosted a concession stand and East Bethel Movie Theatre provided the popcorn. The Family Fun Night was a huge success in 2009 with over 250 participants. Family Fun Night's expenses were approximately \$1,100.

There have been several inquiries and requests for these events as part of the 2010 Booster Day celebration. Before moving forward, staff is seeking Council direction. Is the City Council interested in sponsoring a Family Fun Night for Friday, July 16, 2010? Family Fun Night would cost approximately \$1,100 for equipment rental, movie license and parade supplies. The City Council could consider asking local businesses to co-sponsoring Family Fun Night as it did in 2009. It would be a great way for local businesses to become involved in the community and be recognized for their contributions.

Staff is seeking City Council direction. Council consensus was to move ahead with the Family Fun Night at a cost of \$1,100. Staff was directed to solicit local businesses to co-sponsor Family Fun night as it done in 2009.

Changes to
City Zoning
Code

Voss asked when we are going to discuss the changes to the City Zoning Code that was distributed to Council. He asked are we going to have a work meeting. Council scheduled a work meeting for Wednesday, March 17, 2010 at 6:30 p.m. to discuss the proposed changes to the East Bethel City Zoning Code.

Adjourn

Boyer made a motion to adjourn at 10:05 PM. Paavola seconded; all in favor, motion carries.

Attest:

Wendy Warren
Deputy City Clerk