

## EAST BETHEL CITY COUNCIL MEETING

January 6, 2010

The East Bethel City Council met on January 6, 2010 at 7:30 PM for their regular meeting at City Hall.

MEMBERS PRESENT: Bill Boyer Steve Channer Greg Hunter  
Kathy Paavola

MEMBERS EXCUSED: 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 January 6, 2010 City Council meeting was called to order by Mayor Hunter at 7:30 PM.**

Oath of Office Sell explained that with the resignation of Council Member Klein, Council declared a vacancy and proceeded to fill the vacancy. As a result of the process, Mr. Steven Channer was selected to serve the remainder of term. Before Mr. Channer is seated, he must take the oath of office. The Clerk will administer the oath of office.

Channer recited the oath as follows: **I, Steven Channer do solemnly swear that I will support the Constitution of the United States and of the State of Minnesota, and faithfully discharge the duties of the office of Council Member of the City of East Bethel in the County of Anoka and State of Minnesota, to the best of my judgment and ability. So help me God.**

Adopt Agenda **Boyer made a motion to adopt the January 6, 2010 City Council agenda. Paavola seconded; all in favor, motion carries.**

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

David Kaisershot of 1128 216<sup>th</sup> Avenue NE said he would like council to consider revising the parking ordinance for tractor trailers. He said we just want to be able to park our tractor in driveway. Kaisershot said we have a lot of money invested in our tractor and have over two acres and cannot park there. Hunter asked why not. David said it is against City rules. Sell said it cannot be parked there for more than 24 hours. He said according to City Code, it is unlawful for tractor trailer to be parked more than 24 hours continuously. Kaisershot said he was parked in his driveway for less than 24 hours and his neighbors called and complained and he received many tickets from the Anoka County Sheriff's Office. Sell said it would be allowed if it was less than 24 hours.

Boyer said he thought the tractors were alright but not trailers. He said this was before our time. Kaisershot said he received several copies of ordinance. He said Larry Martin stopped out and gave him a copy of the ordinance. Kaisershot said if someone came in to unload or load, if they complained the sheriff would site them. He said if he had a utility body he would be able to park legally, but because it is classified as a tractor/trailer and he parks his

tractor there, he cannot park there.

Hunter asked is your trailer there. Kaisershot said no. Hunter said he owns a one-ton vehicle and under state definition it is a truck. Kaisershot said he is parking on hard surface. He said his neighbor parks on gravel, a delivery truck and his other neighbor parks in woods, no hard surface. Sell asked if he could e-mail the location of the others and he will check on the basis of the citations. Kaisershot said he went to court, he paid one ticket and they gave him until January 11<sup>th</sup> to pay the other three. He said he works 5 days a week is only home two days and that is when he is parking. Hunter said he can understand in the spring with weight restrictions, but if you are just parking a tractor that should be allowed. He said he thought it was. Boyer said he thought you could bring the tractors in, but not the trailers. Kaisershot said he falls under the weight restrictions in spring. Sell said he will check it out.

There was no one else present for the public forum so it was closed.

Consent  
Agenda

**Boyer made a motion to approve the Consent Agenda including: 1) Approve Bills; 2) Meeting Minutes, December 16, 2009, Regular City Council; 3) Res. 2010-01 Supporting Funding of the Anoka/Champlin Meals on Wheels; 4) Submittal of RFP for Energy Efficient/Conservation Block Grant Program – ARRA; 5) Approval of Paid-On-Call Firefighters' Medical Reimbursement Program; 6) Amend Health Flexible Spending Account for Paid-On-Call Firefighters Policy; 7) Res. 2010-02 Supporting High Speed Broadband Connectivity; 8) Recycling Grant Agreement – Anoka County. Paavola seconded; all in favor, motion carries. Hunter correction page 19, top para, motion, hunter was a nay, paavola, boyer, klein, aye. Randall said mr. channer asked me if one member goes though the bills particularly. Hunter said we just have the overview and if we have a question we ask usually before. Sell said and he will explain the controversial ones or the eons that need to be explained in the update. All in favor, motion carries.**

Adopt Ord.  
15, Second  
Series,  
Transmission  
Line

Sell explained that concerns had been raised by both residents and City Staff to the adequacy of the City's regulations and other controls covering the location, height, and structural configuration of electric power and communication transmission lines in the City. The City has limited official controls to protect property values and the public health, safety, and general welfare of the City from potential impacts of the extension and construction of transmission lines within the City.

In response, Council directed that a work group be formed to review current regulations and standards and develop a new ordinance that addresses the siting of such facilities. Ordinance #15, Second Series, was the result of the work group efforts.

The purpose of the regulations was to establish general and specific criteria and process for conditional uses for electric power transmission lines. These uses will be subject to careful evaluation to ensure that their location, size, and design are consistent with the standards, purposes, and procedures of the ordinance and the comprehensive plan. Further, these uses shall not have a negative impact on property values or financing options, public safety, public health, and environmentally sensitive areas in the City and such uses will address the future power and communication needs of the City.

The proposed ordinance contains General Standards and Specific Standards. These include that all transmission lines in any zoning district require a Conditional Use Permit (CUP). There are guidelines/standards that City Council must follow when considering granting a

CUP such as the use must be consistent with the goals, policies, and objectives of the comprehensive plan, the use must not have undue adverse impact on governmental facilities, utilities, services, or existing or proposed improvements, and the use must not have adverse impact on property values, public health, safety, or welfare, and environmentally sensitive areas.

In addition, Specific Standards outline the application process and requirements. This provides that for a preliminary application submittal and requires the applicant to participate in a work group process in which the proposed project and alternatives for the proposed locations will be analyzed by the work group. The work group will present a recommendation/report to Planning Commission in which the Planning Commission will narrow the alternatives for each proposed siting and/or facility.

Following this process, the applicant will submit an application for a CUP. The ordinance outlines the required information to be submitted with the application. Once the CUP is approved, the applicant would be required to submit a site plan for review in which City Council may consider the site plan at the time of the conditional use request.

Council reviewed the proposed ordinance on November 4, 2009 and directed that outside legal counsel review the proposed ordinance and provides an opinion on the content including the City's authority to enact such an ordinance. In addition, Council directed the proposed ordinance be shared with the League of Minnesota Cities for review.

Mr. Jim Strommen of the law firm Kennedy and Graven was identified as an expert in this type regulation both from a city perspective as well as the regulated industry perspective. He has provided an opinion memo that provides a response to two basic questions.

1. Is the City pre-empted from requiring GRE to obtain a conditional use permit ("CUP") for the proposed transmission line?

Response: The City is not pre-empted by state law from exercising its land use regulatory authority by requiring GRE to obtain a CUP for the type of transmission line being proposed by GRE.

2. If the City is not pre-empted from requiring GRE to obtain a CUP, is there anything in the City's proposed ordinance that goes beyond the scope of the City's land use regulatory authority?

Response: Some of the provisions in the proposed ordinance could be questioned if applied in a manner that prohibits a utility's statutory rights and duties to provide electric service to customers and the Minnesota Public Utilities Commission's authority to regulate that service.

Mr. Strommen concludes that:

There has been discussion of the specific provisions of the proposed ordinance and he has provided alternative language for several items. Based on his review of Minnesota law, the City has the right to enact an ordinance regulating the placement of transmission lines that are not HVTLs permitted through the PUC process.

Mr. Tom Grundhoefer of the LMC has reviewed the ordinance. Mr. Grundhoefer is the LMC General Counsel and provides legal advice to the LMCIT on land use and ordinance

proposals. Mr. Grundhoefer has advised that the ordinance, as revised by Mr. Strommen, would be defended by the LMCIT if challenged.

Staff is recommending adoption of Ordinance #15, Second Series, Transmission Lines as revised by Mr. Strommen.

Boyer asked so this is not a public hearing on this matter. Sell said that is correct the public hearing was held at the Planning Commission meeting last year.

**Boyer made a motion to adopt Ordinance 15, Second Series, An Ordinance Establishing A Requirement and Criteria for Conditional Use Permits for Transmission Lines. Hunter seconded.**

Hunter asked we have this e-mail with the information from Mr. Zisla, the attorney for GRE, is there anything we need to do with this. Sell said no. He said the attorney representing GRE provided an e-mail that indicates that GRE is working on an alternative ordinance, and he is asking council to forgo action on this until council is presented with their ordinance. Sell said in their letter they point out five critical features to their proposed ordinance. He said council has before them the ordinance that staff, the work group you appointed and the attorney the City hired to review the ordinance are proposing. **All in favor, motion carries.**

Adopt  
Summary of  
Ord. 15,  
Second  
Series,  
Transmission  
Line

Sell explained that should Council adopt Ordinance 15, Second Series, Transmission Line Regulations as a part of the East Bethel City Code, state law requires publication of the adopted ordinance or a summary the ordinance adopted. A summary of Ordinance No. 15 will be published upon approval of the summary by City Council.

Staff recommends adoption of the Summary of Ordinance 15, Second Series, Transmission Line Regulations and direction to publish in the City's official newspaper.

**Boyer made a motion to approve the Summary of Ordinance 15, Second Series, An Ordinance Establishing A Requirement and Criteria for Conditional Use Permits for Transmission Lines and direction to publish. Paavola seconded; all in favor, motion carries.**

Appoint Fire  
Department  
Officers

Sell explained that in the past, Officer Positions were elected to two-year terms. Firefighters would apply for Officer Positions and elections were held to determine officer position appointees. In 2007, the City Council adopted Ordinance Number 104B relating to the administration and organization of the City including the Fire Department. Election of officers in the Fire Department was eliminated under the new ordinance. However, the most recent appointment confirmations by the City Council set two-year term limits. Over the next several years, beginning January 1, 2011, this term limits for employees in the Fire Department will be phased out and officers will be appointed to indefinite terms like any other employee. An officer position would become vacant only upon resignation or removal just as any other employee for the City.

Allowing the department to phase out term limits will provide enough time to effectively educate fire fighters on the new procedure/process and transition this change in the department.

There are several officer positions terms that expire December 31, 2010. All qualified firefighters will be given the opportunity to apply for these officer positions in 2010.

In the interim, there are three officer positions with terms that ended December 31, 2009. The District Fire Chief Position and one Lieutenant Position for Station 1 were posted along with one Lieutenant Position for Station 2. Interested firefighters were asked to submit a letter of intent, resume, and any pertinent certificates to the Fire Chief. Based on the selection process that included qualifications, experience and training, individuals were interviewed for these positions.

After review of the qualifications, experience, training and personal interviews with qualified individuals, recommendations for these positions include Station # 1 Assistant Fire Chief: Ron Stanley and Lieutenant: Gary Schultz and, at Station # 2, Lieutenant Tammy Gimpl.

Based on the recommendation of the Fire Chief, the City Administrator is recommending appointment of Mr. Ron Stanley as District Fire Chief and Mr. Gary Shultz as Lieutenant at Station 1 and, Ms. Tammy Gimpl as a Lieutenant at Station #2. These are two year appointments effective January 1, 2010 and ending December 31, 2011.

These positions will be advertised again in the fall of 2011 and recommendations for these positions will be forwarded to the City Council for appointments effective January 1, 2012 for an indefinite term.

**Paavola made a motion to appoint the following officer positions for the Fire Department with terms as indicated: Mr. Ron Stanley as District Fire Chief and Mr. Gary Shultz as Lieutenant at Station 1 and, Ms. Tammy Gimpl as a Lieutenant at Station #2, two year appointments effective January 1, 2010 and ending December 31, 2011. Boyer seconded.**

Boyer said he is somewhat confused. He asked who will be electing the officers once we abolish the term limits. Sell said there are no more elections, the elections went away. He said term limits will also go away. Sell said Ordinance 104B that was adopted in 2007 does not include elections and term limits. He said this is a big change for the fire department and that is why we are suggesting these appointments have two year terms and then these would be the last appointments to have term limits. Sell said after this the appointments would be like any other City employee.

Boyer asked what is the rationale for treating the appointment of fire department officers differently than we do for people that serve on the Planning Commission, Park Commission or Road Commission. He said those people apply and have three year terms. Sell said fire fighters are employees and employees do not serve terms. Paavola said this was discussed at the fire department meeting on Monday and there was no opposition to it. Sell said the only reason we are suggesting terms this time, is this is a big change and the next ones will be indefinite terms. Channer said since there are terms ending in 2010 we will have to do this in one more year.

Boyer asked is the removal process the same as any City employee. Sell said yes, it would start with aggressive discipline. Channer said he assumes we would allow them to vacate this appointment and go back to being a regular firefighter if they requested this. Sell said yes. Boyer said he assumes the Fire Relief Association still appoints officers. Sell said yes, they are not totally separate from the City, but they have in their bylaws to appoint the officers to manage the Fire Relief Association. He said the Mayor and finance director sit

on the board of the Fire Relief Association now. Boyer asked is there a prohibition of someone serving as a fire department officer and as a trustee of the Fire Relief Association. Sell said they can serve as both, and the Fire Chief does just that. He said they can fulfill both. **All in favor, motion carries.**

City Council  
E-Mail  
Addresses

Sell explained that Council Member Channer has requested a City email address. This would allow Council Member Channer to separate his personal e-mail from official City Business. Currently all other Council members are using their personal e-mail addresses for receiving messages related to city business. Although the equipment is personal, the subject and content of any e-mails regarding City business or issues by Council Members using their personal e-mail account is subject to data practices laws.

The City Council may want to consider using a City provided e-mail address. This will better protect Council Members' private electronic communications that are unrelated to City business. Council Members would be able to access their City e-mail account by logging on to the City's network through the Internet. Council Members would then use the City's e-mail system for sending and receiving messages related to City business. Standardizing e-mail addresses may make it easier for residents to communicate with the City Council.

Should City Council use standardized e-mail addresses, the City's Technology Use Policy would be followed. The purpose of this policy is to define acceptable and unacceptable use of the City technology including, but not limited to computer systems, electronic mail (e-mail), the Internet and other information systems. The primary goal of this policy is to maintain appropriate security to protect City data and technology and avoid inappropriate use of City technology.

All data stored on computer media owned, leased or rented by the City, is considered to be owned by the city. All data stored on the City's network is subject to the City's records retention schedule and the Minnesota Data Practices Act. Council Members would not have to retain electronic communications on their home computer relating to City business. Exclusive use of the City e-mail would provide storage on the City's network. However, the City Council would be responsible for managing their own City e-mail account. E-mail that is not an official record of City business should be deleted as soon as possible and should not be retained for more than 120 days.

There is a cost for this service. Our e-mail service provider would charge approximately \$720 annually to have City e-mail addresses for the City Council.

The format for e-mail addresses for City Council would follow this construction: `firstname.lastname@ci.east-bethel.mn.us` (i.e. `steve.channer@ci.east-bethel.mn.us`).

Staff is seeking Council direction.

Hunter said personally he thinks it is a good idea. He said the fact that we retain City e-mails on our personal e-mail could become an issue; there may be something personal that ends up out there because of this. Sell said using a City e-mail address for City business would eliminate the need for you to obtain e-mails in your personal e-mail account. Boyer said speaking for himself personally, if we were to move forward with this, he would merely forward the mail that comes to his City e-mail account to one of his other three e-mail accounts. He said he has enough e-mail accounts to manage. Boyer said he doesn't

be grudge anyone that feels otherwise. He said there are other alternatives we can explore, such as having one general City account such as general.council@ci.east-bethel.mn.us and then have staff forward them to all of us. Boyer said he does receive e-mails from residents, but that is general at his home address. He said he likes the idea of doing it, think it is nice that it is standardized, but he wonders if he knows the address because he works for state government and it is pretty similar for all cities. Boyer said he wonders if that is influencing his discussion.

Sell said this is not an all or nothing proposition. Paavola said all she has is a personal e-mail. She said whatever she gets from the City is deleted immediately, but if it is easier to do another way that is fine for her, Channer asked isn't one of us supposed to hold on to the e-mail. Sell said if someone wanted it, they would go back to the e-mail provider for this. Paavola asked would it be much better as the City is concerned to have it just coming from the City. Channer asked do you have concerns about privacy issues. He said because if you do, the e-mail is encrypted and no one else can read it unless you give them permission to do so. He said if Boyer wants to set up his to forward to his personal e-mail, then he wouldn't have to retain e-mail in both places. Channer said he can be the guinea pig, he doesn't mind. Sell said you can always discontinue this if it doesn't work. Boyer asked would you rather do all or just one e-mail address. He said we could have one address that the e-mails are forwarded to us. Hunter said so we would just have one for council and any one council member would be able to access it and no one could delete it. Boyer said yes.

Channer made a motion that Council adopt standard e-mail addresses (firstname.lastname@ci.east-bethel.mn.us) through the City and accounts will be managed through the City e-mail system on a trial basis until brought up for review for all Council Members. Hunter seconded. Boyer asked when is our next newsletter going out. Sell said it will be going out in the next week or two. He said Voss indicated to him that he didn't have an issue with anything on the agenda, so he thinks he will be agreeable to this. Sell said just for Voss he has three different e-mail accounts and this would make things easier for him.

**All in favor, motion carries.**

Labor  
Agreement  
Teamster's  
Local 320

Sell explained that based on Council direction, we have offered and the Union has accepted a counter offer that includes several provisions relating to wages, cafeteria contributions, comp time, etc. The final document is attached to this agenda item for your review. We have received written confirmation from the Teamster's that this agreement is acceptable.

#### Wages and Salaries

For wages, we have agreement that wages and salaries will remain at 2009 levels and that a provision for a wage negotiation re-opener is provided for in 2011 and 2012. (Attachment #1 to the Agreement)

#### Cafeteria Contributions

The City and employees share in the cost of increases for insurance benefits that affect the amount contributed to the cafeteria plan. For 2009, the amount paid by the City towards the plan is \$857.07 per month. For 2010 only, the City proposed and the Union accepted a cafeteria contribution of \$906.25 that represents an increase of \$23.35 per month per employee. The total per month per employee for 2010 only is \$906.25.

Calculation of City contributions to the Cafeteria Plan for 2011 and 2012 will revert to the original formula wherein the City and Employees share 50/50 any cost increase. (Article XIII of the Agreement)

Compensatory Time

The Council indicated that the provision to reduce the number of hours to be accrued from 60 to a lesser amount. Further, that any amounts remaining in the "Comp Bank" at the end of November of each year of the agreement be paid out. The City offered and the union accepted a reduction to the Comp Time accrual and pay out that limits the accrual for 2010 to 60 hours, 50 hours for 2011 and 40 hours for 2012. Use of Comp Time requires supervisor approval and must be taken in 2 hour increments, at a minimum. (Section 8.5 of the Agreement)

No other changes are recommended.

Staff is recommending adoption and execution of the Labor Agreement between the City of East Bethel and Teamster's Local #320

**Boyer made a motion to adopt the Labor Agreement between the City of East Bethel and Teamster's Local #320 as submitted. Paavola seconded.** Hunter asked did we always have this many holidays. Sell said yes, and they asked for more and he wished them good luck. Boyer said Hunter says this every year. Hunter said we need to visit that next year. **All in favor, motion carries.**

PFA Grant for Well No. 2 at Whispering Aspen  
 Sell said we received notification via e-mail of a grant award from PFA for Well No. 2 at Whispering Aspen. He said the grant is for \$298,000, which is 80% of the cost. Sell said the PFA was gracious enough to increase our grant request because the bids that came in for well were higher than our estimate. He said that leaves \$74,000 to be financed and based on the information we received today we will be approved for a 1% loan for 20 years. Sell said in that regard there were two households that did not respond to the survey. He said this is important because there is a potential for additional grant money if we have a 100% response to the survey. Sell said we will work on getting the two households to respond so we can see if we can get additional grant money. Hunter said he will work on this for the City even if he has to knock on some doors. Sell said this takes this project way down in costs. Hunter said this is incredible. Paavola said yes it is incredible.

2010 Council Commission Committee Appointments  
 Sell explained that the list of commission and committee assignments was provided with the December 4, 2009 UPDATE and again in the agenda material for the December 16, 2009 City Council meeting. This item was tabled until this evening. We have provided a list of Commission/Committee Assignments from 2007-2009 and space for 2010 assignments as requested. Staff requests Council direction.

Hunter said there will be an additional opening on the Planning Commission because Council Member Channer will no longer be able to serve on the commission. Sell said we have received Channer's letter of resignation for the Planning Commission. Channer said he resigned yesterday.

**2010 Acting Mayor** -- Council Member Voss

**2010 Road Commission** -- Paavola explained that the members of the Road Commission requested that she stay on the Commission. She said she knows we like to have everyone switch around. Boyer said he finds the switching around annoying, we lose continuity. He said he can see switching every so often, but he thinks yearly is way to fast. Boyer said we appoint commission members for 3 years, but we move Council Members like it is a revolving door.

Channer said yes, by the time you get in the swing of it you are out. He said he found it irritating to have to educate someone continuously with all this switching around. Ken Langmade, chairman of the Park Commission, said he finds working with Council Member Boyer great, he enjoyed this very much and we are just getting to know some of the programs that we would like to hit. He said he would like to keep Boyer on this commission.

A member of the fire department said he thinks it is nice to have the Council Members move around, because then we have someone new that can learn about us and what we do. Channer said he would like to be appointed to the fire department. Paavola said she was on this committee and the fire fighters do a lot of work and are very dedicated. Channer said as far as being a liaison, he thinks it is important to rotate the liaison for the police and fire more than some of the other ones. He said he quantifies these differently, but he agrees with Boyer about the commissions, it took him a whole year to get up to speed as a Planning Commission member.

**Park Commission** -- Boyer

**Planning Commission** -- Voss

**Watersheds** -- Hunter asked if anyone is interested, he has missed the last two meetings, but he can continue as the liaison on this if no one is interested. Hunter will stay on as liaison.

**Cedar Creek Committee** -- Boyer

**Sandhill Crane Committee** -- Hunter said they don't meet. He said we were supposed to meet, we talked about it, but we didn't have an official meeting.

**Fire Department** -- Channer

**Police Liaison** -- Paavola

**Booster Day Committee** -- Hunter and Channer

**Finance Committee** Boyer and Hunter

Hunter reminded all Council Members that they can attend any meeting. He said he will check with Council Member Voss and make sure he doesn't want to change his appointment to any of these commissions. Hunter said he and Voss could switch committees/commissions between the assignments made to them. Sell said a Council Member cannot make a meeting that you are scheduled to go to, let him know and he will broadcast it and someone will usually step up to attend. He said or if you don't want to do it that way, call someone and ask them to go for you.

Fire  
Department

Paavola said she attended the fire department meeting on Monday night and they talked about the Safer Grant and Explorer Activities over the holidays. She said it was very interesting. Paavola said she ran into the fire fighters when they were out on the beach, and the little kids that saw them out there were very excited. Paavola wished everyone a Happy New Year.

Transporta-  
tion Funds

Boyer asked have we heard anymore on supplemental funds for transportation. Sell said we haven't heard anything. Jochum said he also isn't aware of any new things.

Budget

Boyer asked as far as strategy in terms of the government and legislature, since they are headed back to reformulate the budget, he is wondering if the grant funds could be affected. Sell said his understanding is the grant funds are federal funds. He said the low interest loan money is provided by debt issued by the state, by policy they can't go lower than 1%. Sell

said those dollars should be secure.

Town Hall Meeting

Hunter asked have we thought about or should we be thinking about the Spring Town Hall meeting. Sell said we will add this as an agenda item for January 20<sup>th</sup> and throw some things out there to see what Council would like to do.

Adjourn

**Boyer made a motion to adjourn at 8:28 PM. Paavola seconded; all in favor, motion carries.**

Attest:

Wendy Warren  
Deputy City Clerk