

EAST BETHEL CITY COUNCIL MEETING

July 24, 2023

The East Bethel City Council met on July 24, 2023, at 7:00 p.m. for the regular City Council meeting at City Hall.

MEMBERS PRESENT: Kevin Lewis Brian Mundle Bob DeRoche
Tim Miller Jim Smith

ALSO PRESENT: Jack Davis, City Administrator
Eric Larson, City Attorney
Rodney Sanow, Fire Chief
Aaron Berg, Community Development Director
Lt. Derek Peters, ACSO Liaison

1.0 Call to Order

The July 24, 2023, City Council meeting was called to order by Mayor Lewis at 7:00 p.m.

2.0 Pledge of Allegiance

The Pledge of Allegiance was recited.

3.0 Adopt Agenda

Mundle stated I'll make a motion to adopt tonight's agenda. Miller stated I'll second. Lewis asked any discussion? DeRoche added Item 4.0.E, Supplemental Payment Summary.

To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

Lewis stated they would be having the Open Forum first.

5.0 Public Forum

Joe Banta, inquired about the Ordinance regarding dog barking. He noted there was someone on Dogwood that had four dogs. He believed that person should have a kennel license, along with tags, vaccinations, etc. He noted he had called the Sheriff a couple of times this year and Davis had been notified also. He was retired and wanted to open his windows and take a nap but all he heard was dog barking. He asked if the Council was passing Ordinances without them being enforced or where they Ordinances supposed to be abided by. Lewis responded that was the idea.

Mr. Banta asked who was going to take control of letting people know this. He noted he had called the Sheriff out who did not hear the dogs barking. He indicated his other neighbors complained to him about it because they are afraid of retaliation in the neighborhood. He asked if the Ordinances could be put in the newsletters. He suggested if the Sheriff didn't hear the dog barking, they should knock on the door and talk to the person and ask to see the vaccination record and tags for the dog. If that person didn't have that information, then they would be given a warning and a specific amount of time to come into compliance with the Ordinance. And then the Sheriff should come back out and check again. If the person still didn't have the information, the person should be fined.

DeRoche noted if a dog has not bitten anyone, it was not a dangerous dog.

Larson stated Mr. Banta was talking about the enforcement. He recommended they take this under advisement to look at how best to more effectively enforce the dog Ordinance. He noted he would need to look at Mr. Banta's suggestions to see if they were lawful and then figure out what would be the best next step, if any.

Davis acknowledged he has had several conversations with Mr. Banta about the Ordinance. He indicated the Anoka County Sheriff's Department enforces the dog Ordinances, so whenever Mr. Banta called, he suggested he call the Sheriff's Department for a Deputy to come out and investigate. He noted if the Deputy detected there was an issue, they could write the owner of the citation a written warning, or make sure that process had started towards some type of enforcement. However, he indicated sometimes the Deputy would come out and the dogs were not barking. He believed there might be a hole in the Ordinance with respect to this they should look at.

DeRoche asked if there was something in the Ordinance referring to two people from the same residence calling. Davis noted two different people could call, but it did say if it was two different people from the same household then they will come out and investigate it.

Smith asked when the first time Mr. Banta was called about this. Mr. Banta responded he was not sure, but it could have been nine or ten years ago. However, he indicated that was another dog issue.

Lewis requested Lieutenant Peters make a comment. Lieutenant Derek Peters informed Mr. Banta if he had not reached a resolution regarding a matter, he could call him. He stated when a complaint was received a Deputy would respond, but sometimes they might get a CSO when the City has a contract for a CSO, which they do not right now. He indicated a dog call had a lower priority, but it was still important. He noted they want to use the lowest level of enforcement to correct the behavior. He indicated when he was a working patrol officer, he was not one that went and banged on peoples' doors and started writing citations as there was always education, or reinforcement. He stated if education did not work, then they would go to the enforcement. He did agree that asking for vaccination and licensing of the dog(s) was a good idea. He stated he wanted to help Mr. Banta reach a resolution to this and recommended Mr. Banta continue to call on this. He asked Mr. Banta if he had a paper trail.

Lewis asked if they needed to look at the Ordinance. Larson responded they needed to look at the administration enforcement and not the Ordinance language.

Berg suggested Mr. Banta should take out his cell phone and record a video of the dog(s) barking and show that to the Deputy as video evidence. He noted when his office received a dog complaint, they cross referenced the list of dog licenses and if the dog were not licensed for that address, a letter would be sent.

Mundle noted Ordinances are made the best they could be, but a lot can go down to human error or just simply compliance with the Ordinance. He indicated there can be two sides of a coin.

Lewis recommended Mr. Banta video the dog barking. He asked if he had spoken with his neighbor directly about this. Mr. Banta explained he had introduced himself to his neighbor and he said they were new at raising dogs and they would try and get it in check.

4.0 Presentations and Public Hearings

4.0 A Capstone Concept Plan

Berg stated the City Council is requested to review the concept plan for a Mixed-Use PUD as proposed by Capstone Homes, Inc.

- The development consists of approximately 160 acres, of which 115 acres are developable, and is located at 1788 Viking Blvd NE.
- Spans across zoning classifications of Mixed Use, Single Family Residential and Rural Residential Districts.

- Over 71 percent of the proposed development is located in the MXU, while 11 percent is in a Single-Family Zone, leaving 17 percent in the Rural Residential Zone.
- Section 56 - PLANNED UNIT DEVELOPMENT (PUD), Subsection D. – A Planned Unit Development is required in Mixed Use Districts in the city. Mixed use allows for commercial, residential, parks and open space and, as such, are in compliance with the East Bethel Comprehensive Plan (See Attachment #3).

The PUD Concept Plan is used to provide feedback to the developer through staff review, the Planning Commission and City Council.

As part of the preliminary review, staff has offered the following comments:

- Access – Ingress and egress to the development will be accessible from Viking Blvd. NE and Sandhill Parkway NE.
- Open Space - Capstone has proposed over 45 acres of open and green space within the 160 acres of the development, which includes over a 1-acre community park space, in addition to walking trails and unique landscaped buffers. (See Attachment 5)
- Streets – Streets and cul-de-sacs, along with utilities should be constructed in compliance with City Code Section 66 – 164 which requires that streets shall provide for future connections to adjoining un-subdivided land.
- Housing - The plan consists of a neighborhood of 350 new single-family homes in two lot styles. With a combination single level, multi-level, or two-story floor plans.
- City Services-The plan indicates the new single-family homes will each be connected to the city sewer and water as a majority of the development is within the Metropolitan Urban Service Area (MUSA). MET Council has confirmed that a MUSA boundary adjustment would require an amendment to the city's comprehensive plan to extend service to the parcel outside the boundary.
- Density – The plan consist of a density at 3.04 dwelling units per acre which is within the 2040 Comprehensive Plan density range and close to the target average of 3 dwelling units per acre in the MUSA. (See 2040 Comp Plan Table 3-4)
- Parks Commission - The Concept Plan will be placed on an upcoming agenda for the Parks Commission to review and comment.
- Environmental Assessment Worksheet (EAW) – The proposal will require an EAW which includes, but not limited to, a detailed evaluation of Land Use, Natural Resources, Water Use, Geological Conditions, Traffic, Air Emissions, Historical or Archaeological Resources, Impacts on infrastructure and more.

Berg noted at the June 27, 2023 Planning Commission meeting the Planning Commission held a Public Hearing where ten residents spoke. The comments could be classified into three themed categories: the “Rural Feel” of the area, “Traffic Concerns,” and “Density.”

Berg stated this project will generate \$389,000 in annual city property tax revenues at build out in 2029. This estimate is based on an average of \$350,000 of estimated market value for each of the 350 units with a tax classification rate of 0.01 (residential) and the 2023 city tax rate of 31.76%. The city will also collect \$1,960,000 in City SAC and WAC fees over the life of the project (2024 -2029). This amount would pay nearly the entire METC Reserve Capacity Loan Debt. In addition, the increased housing count would be another positive metric in the city's efforts to attract basic retail, food, and grocery services to the city.

Berg indicated staff is requesting the City Council discuss the proposed concept and informally advise the developer on adjustments to the proposal and plan.

Matt Barker, Capstone representative, provided a PowerPoint presentation with revisions to the concept plan. He indicated they had taken everyone's comments into consideration from the public hearing and workshop meeting. He indicated the plan updates included: Increased City park space to include 8 acres of active and passive play; removal the 189th access per City comments; softening the density impact in eastern region of the plan; and, contracted with engineers for a Traffic Study of Viking, 187th and Highway 65.

DeRoche asked with respect to their traffic study if they were aware of the Elevage development coming in and was that going to be taken into consideration. Mr. Barker responded that the traffic study would take into consideration those traffic points around the Elevage property. He noted it would also take into consideration the school traffic.

Mr. Barker showed a couple of different home offerings. He noted with the 30-acre parcel, the ability to connect water and sewer to those homes would require a Comprehensive Plan amendment, which was a process they would be looking at as well.

Mundle noted with the 30 acres to the east, part of the premise of when the City Council over time put sewer and water in the City, the Council specified it for the corridor, three quarter miles on each side. He stated it was a commitment at the time that it would not go beyond that no matter if it was a continuing continuous piece of property or not. He did not know how this Council would handle it, but if the Council stuck to that three-quarter mile line and did not allow water and sewer to go beyond that three-quarter mile range, how would that affect them and would this project still go forward without that.

Mr. Barker responded that was an interesting question. He indicated they had looked at this as an entire neighborhood from the beginning with respect to the design. He stated to pull a portion of that away from that neighborhood to move a different direction was not something that they were feasibly able to do right now. He indicated they have done that calculation of what would it look like to lose a significant amount of homes that would be able to be built into the development it would impact the overall look of the neighborhood in a financial way for them. He noted it would become a difficult hurdle to get over when they would not be able to have the continuity of the neighborhood through the entire community.

Lewis asked if this would kill the deal. Mr. Barker responded if they separated off 30 acres, it would definitely become a difficult hurdle.

Lewis noted anything was possible with a revised price. Mr. Barker responded the struggle was where did they moved it. He noted they have tried to maximize the use of the space so if they were going to lose a majority of the homes in that parcel, it became difficult to absorb that into the rest of the development. He was not sure where they had looked at that with their engineers to figure out how that could be changed. He noted the ultimate solution was to try and create some buffer and some ways to kind of soften it so it could work on that parcel. He noted this became a very difficult hurdle when they were talking about a significant amount of lots pulled from the overall development.

Berg used a map to show the 30-acre parcel being referred to. Mr. Barker noted they were also having to deal with the wetland and they were not able to go much beyond the point they were at and the City would not be able to grow any further to the east. He stated there was also a huge wetland complex right in the middle of that and that was the reason they were not able to do much development on that. He indicated the 30-acre parcel was somewhat the end of the line where there

could be some potential development. He stated it was a stopping point of growth on that parcel and the end of the line to where there could be some potential future connections to the south.

DeRoche asked if the rules were the same for the golf course that some of the wetlands could be man-made versus regular wetlands. Davis responded that a lot of the wetlands in the area were natural wetlands. He noted he had not seen the wetland delineation, but there were distinctions between incidental and natural wetlands.

Berg stated they also had Anoka County Soil and Water tell them that something created 50 years ago was not classified as a wetland because it had been there so long. He indicated no matter how long it had been there, it was probably classified as a wetland.

Mundle understood Mr. Barker's point and it was unique in that perspective. He indicated the Council had to look at this as a whole along the three-quarter corridor. Lewis indicated some precedent would be set otherwise if another developer wanted to do this.

DeRoche asked the City Attorney to comment. Larson agreed the Council needed to be concerned about setting precedent. He noted they were talking about an equal protection action, which were very, very difficult ones to prevail on. He stated he agreed this was a fairness standard they were setting and if they did this with this developer, under this exception, they were creating an exception across the City. He noted the question was, was this a one-off exception, or were there other potential exceptions within the City that could also be triggered by this. He indicated this was where the City Planner and Development Director came into gauge on those exceptions.

Berg believed this was a classic case of land use and it was a request of a potential landowner for a reclassification which would be looked at on a case-by-case basis just like variances, conditional use permits, applications for land use, etc. He stated because this was currently zoned one way and they were asking for a rezoning in order to do this, this would have to be rezoned in order for this development to happen. He indicated if a future developer saw a similar scenario, they would have to come to the Council with a request for a rezoning classification for a different land use than what existed. He stated the only exception with this one was the developer was looking to extend sewer and water service to this parcel outside of the boundary, which the flexible guidelines from the Met Council was possible, but it would take a Comprehensive Plan amendment which had to be approved by the Met Council.

Lewis asked if the currently zoned R1 had to be rezoned. Berg responded it could be because it was within the service boundary right now. He noted in the plan unit development, because it was already within that district, and the mixed-use standard was to provide a variety use of densities and sizes for commercial, so that the City could spread out and become a little bit more diverse in a plan so that the City Council could dictate how they wanted an area to develop.

Lewis asked in the commercial area, was a grocery store going to be developed there. Berg responded that was within the Elevage development. He stated the commercial space could hold a grocery store, restaurant, fast food, etc., and on the Final Plat there was a space designated as a future grocery store, which was still in their plan.

DeRoche noted if they were talking zoning text amendment, would the mixed use be residential and commercial, or did it have to be all commercial or all residential. Berg responded it was up to the Council to decide what they wanted.

Mr. Barker noted with this development, Viking Meadow also maintained ownership over a portion of this that they were currently marketing mixed commercial, which was not shown on their plan.

Berg stated the City's Comprehensive Plan and agreement with Met Council was that they would target three units per acre Citywide in the MUSA, so this was below the target range for their already defined level of development.

DeRoche asked how did the Met Council, outside of the sewer/water district, have control over how many units per acre. Berg explained the Comprehensive Plan amendment and MUSA.

Miller asked if the 30-acre parcel was three per one and not the entire development. Berg responded Capstone was trying to target the entire development to stay below the three.

Berg stated at the request of Capstone, he had reached out to the City's Met Council representative and told them the City had a development proposal. He told the representative they wanted to know if this could be brought into the MUSA area to be serviced by service and water and the response he received back was that it could be done but it would take a Comprehensive Plan amendment and approval by the Met Council before that could be brought into the MUSA. He stated they had not had a follow up conversation with the Met Council in terms of timeline or requirements, etc.

Mundle did not believe these questions would get solved tonight and would take additional discussion. He appreciated Capstone working with the City and listening to the residents and taking the comments and applying them so they were not at maximum density and allowed for more open space. He liked that half of the 30-acre piece was essentially being left open and if the 30-acre piece parcel was not outside the three-quarter mile mark, he was sure they would be having a different discussion right now. But that was something they would have to address. He complimented Capstone and stated they were doing a good job with their honesty and integrity.

Miller inquired about the setbacks from 10 to 7.5. Mr. Barker responded the request in front of Council tonight was for a 45 and a 65-foot lot with 7.5-foot side setbacks. He believed this sat close to the current zoning for the homes.

DeRoche stated it was sometimes different in a development versus the neighborhood he lived in where the setback was 10 feet. Berg stated Council gets to decide on a planned unit development.

Mundle asked in Viking Meadow, what were the setbacks. Berg responded he would need to check, but he believed they were tighter than the regular zoning standard that was agreed to in that Planned Unit Development.

Davis pointed out the MUSA boundary. He noted it was arbitrary and it was almost the dividing line between what was available and what was not available.

Lewis stated in his experience in cases like this, there was one thing that made things feasible and that was the price of the land. He noted they could have one house per acre, and that would make sense. He noted it was not incumbent upon the City to change the size and shape of their MUSA to accommodate this as otherwise it was not feasible. He stated he was loath to do that. He noted while he was the Mayor, he was just like another Councilmember and only had one vote, but he was not going to do it. He stated if that affected Capstone's profitability, they needed to change the numbers. He indicated they could always negotiate the value of the land. He stated residents had come up to Open Forum, public hearings, etc. and said they wanted country living. He noted residents also wanted a grocery store, but in order to get a grocery store they needed rooftops. He emphasized with Capstone they had to get their numbers to work.

Berg responded to Mundle's previous questions on the Viking Preserve setbacks. He noted some of them look at the smallest at 10 feet, but most of them were 15 feet. For the 10 feet, which told him

they were probably 5 feet off the property lines, for a total of 10. He indicated a 7.5-foot setback would be 5 more feet of additional space. Mundle responded he considered that acceptable.

Lewis stated his biggest concern other than imposing upon the people who own property adjacent to this, was the traffic impact. He believed this would have an enormous impact on traffic for people going north and south on Highway 65. He noted this would not personally impact him as he lived in a different part of the City, but he could already see what was going to happen. He believed this would have a major impact on rush hour traffic. Mr. Barker believed there was going to be a lot of information that would come from the traffic study.

Barker stated Miller had made comments about the setback. He noted one of the things they wanted feedback on was the 45-foot product or the 65-foot product. Miller stated he did not want to be offensive but Viking Meadows was a gorgeous piece of property with trees, character, etc. He indicated he was afraid Capstone would come in and "bulldoze it and make it into a cornfield and then maximize what they could to put houses on it." He noted he was all for development, but in the right way and preserving stuff that was within the City.

Miller stated he was having a hard time seeing this as an improvement to the property and preserving the natural beauty of what was there. He was afraid they would create ponds that would have stagnant water and use the sand taken out to fill in other areas of the development. He was concerned how that was going to affect those houses with mosquitoes, etc. He indicated he was very concerned about the existing residents around there also. He asked how that would affect what those residents had and why they moved to the City as well as destroy the natural beauty. He stated he was having a hard time with all of the houses being shoved into such a tight area and maximizing it. He believed the City would lose a lot. He stated Capstone had an opportunity to make this a beautiful development, which was what he was for and what he wanted in the City.

Miller stated the City was 40 square miles and he did not want to shove all of the houses into one corner. He indicated he was looking at what the City could potentially lose. Mr. Barker stated that was really important things to think about and what they needed to take into consideration. He noted his background was in landscape design and he thought a lot about that in the development plan. He pointed out what was existing in their plan was that they left 50 acres as wetland and natural areas. He noted when they work in a community, they were always looking for ways they could maximize natural beauty. He stated trees were important to them and they wanted to save as many of them as they could. He noted they did not want to "blow" the land open and turn everything into straight roads. He indicated they understood Miller's concerns and his concerns were also their concerns and what they thought about working through this development and design.

Mr. Barker acknowledged it was difficult for the City because what Council was seeing was blobs of different products, but they put a lot of design elements into their projects and thanked the City for the feedback.

Steve Bond, Capstone Land Team, stated they had to go with the guidance of the land itself. With respect to density, he noted the land use was calling for a density far greater than what they were proposing. He indicated the golf course wanted to sell and the golf course was not going to keep the land. He acknowledged this was a matter of price, but the golf course did not have to accept anything. He believed the golf course would sell their land for the value their property was guided for. He stated the golf course had set a price, which was probably a fair price based on how many units could be put on this land.

Mr. Bond indicated after hearing the City's and resident's concerns, they had never before proposed a project that had as much open space as this one did. He noted the team had been discussing over the past few weeks how much open space would they possibly propose and came up with maximizing the open space around the park. He stated this was bigger than anything they have ever done. He indicated they gave up land that they could have put units on. With respect to the setbacks, he stated they would still have 7.5 feet between the buildings and this was 95 percent of what the setbacks were for this type of housing in the Twin Cities. He indicated they were going far lower than what the land was guided for. He acknowledged the concern the Council had with respect to traffic, but indicated they had taken traffic into account and traffic was decided when the land was.

Lewis stated he liked in the Coon Lake Beach area of the City, which was the oldest and densest area of the City and the setbacks Capstone was proposing were smaller than the average ones at Coon Lake Beach.

Lewis indicated with respect to traffic, the last time the Comprehensive Plan was revised, he was disappointed to find out that the R1 area was in the MUSA. He stated the one thing they could not do was to allow past decisions that might have been misguided or incorrect to guide their future decisions.

Lewis stated there were plenty of people in the City who did not want to be on the hook for millions and millions of dollars of debt. He acknowledged this development would contribute to a lot of money for SAC/WAC which would go towards retiring that debt, but they could not make future development decisions based on one decision made in the past. He indicated this had to be taken on what was the sentiment of the community now.

Lewis noted the Council did not serve anyone but the residents and they needed to take the residents into consideration in this decision. Mr. Bona responded he appreciated the comments but noted the golf course landowners had rights under how the land was zoned also.

Berg stated 71 percent of the land, which was in the mixed-use district, could be developed per the City's Zoning Code at 6 units per acre. Lewis noted this could not be done if the infrastructure could not handle the traffic.

Berg stated it could be proposed to be six units. Lewis stated they could propose whatever they wanted, but they could not force the City to agree to something that was impossible to handle given the existing infrastructure.

Berg agreed that even if six units per acre were proposed in the mixed-use district, then the rezoning for the R1 would be used with its current zone which would still trigger an EAW due to the number of units that would be jammed into those two different zones. He indicated there would be a traffic study if they proposed six units per acre and 71 percent was going to trigger that immediately because of the number of units per acre.

Lewis stated they could not be forced to move at any particular speed either as the deliberating body. He indicated they had to consider all of the possibilities and they do not have to do this every living hour of every day. He noted they had to learn about the decisions they were going to have to make, which might be frustrating for people, but that was the "nature of the game."

Mr. Bona noted they would be doing a traffic study and once the study was completed, Council would have something to discuss. He indicated they wanted to get to the point where a traffic study would get done, which he agreed was a very important issue.

Lewis stated he was not a traffic engineer, but he had gone through a previous traffic study and it was clearly insufficient to the reality of the development. He indicated the Council would not “fall for some joke traffic study” that didn’t look at the surrounding area.

Lewis stated he loved development and business, but he hated reducing the quality of life for the residents just to make something happen. He indicated he did not want to be the guy who was responsible for the next bad decisions in the City. He believed the traffic would have a big impact on the City.

DeRoche agreed with Lewis and indicated he had seen decisions made where the residents were not taken into account. He asked how it was going to impact the residents. He noted most people moved to the City because they did not want the hustle and bustle and being crammed in.

DeRoche stated once sewer and water came in, then the Elevage project came in. He noted he was on the Roads Commission at the time and the Roads Commission had turned Elevage down three times, and now there was not a Roads Commission.

DeRoche asked how Capstone would get people in and out of there. He indicated when the “goofy” traffic circle was put in, people were still trying to figure out how to navigate it. He stated he could see the same thing here.

DeRoche stated when Cambia came in they said the roads were going to be kept dirt and all of a sudden the roads were paved and they were assessed exuberant amounts of money and now their level of privacy has gone down. DeRoche acknowledged this was not Capstone’s fault, but he could see this as a natural progression as to what has happened in the past and what was going to happen now.

DeRoche stated now they were talking about putting in 350 homes and even if they put one vehicle in per house, he believed this would be an issue with safety and getting people in and out of that area. He asked about a fire egress/ingress.

DeRoche stated he isn’t going to say Capstone is a greedy developer, because if he were a developer he would want to build also. However, once this is built, the developer leaves and what will the ramifications and impact on the City be. He noted it was said the City would make \$1.6 million over the life of this, but this was “peanuts” compared to what they hold on this. He noted big numbers did not impress him.

DeRoche believed the developer had a great product, but he did not see how it would work and fit in the way Capstone said it would.

Mr. Bona thanked the Council and Mayor for their comments and stated their feedback was very important because they had a contract. He stated aside from the traffic study, what else was important.

Smith stated there were a lot of good points made and his big concern was with the residents that had to live there. He noted once the development was completed, the developer moved on but it was the residents and the City that had to live with it. He indicated if the Council made a decision and they were wrong, it was going to impact a lot of the residents.

Mundle stated the question was what the City would accept in that area.

Lewis stated his answer would be run the equation in reverse and see what the maximum size or density of homes would be there with the average family size, occupants, cars which would allow a functional transportation system given the current infrastructure they had. Mr. Bona believed what

they proposed would work with the traffic study. He noted the analysis the Mayor had suggested was what they were trying to do. He indicated they had a lot of ideas as to what worked and did not work and they deal with traffic studies in every development. He believed what they proposed for this development would work. He also believed the traffic study would come back and ask for turn lanes in certain spots to make things safer at certain points. He indicated they would have a hard time backing off the density numbers if the traffic analysis ended up supporting it.

Lewis stated he wanted the traffic study to look at the entire picture. He noted he would be closely looking at the traffic study and whether it made practical sense. He stated if they just “run a smoke and mirrors deal,” he would be able to figure it out and he would reject it as being bogus.

Mr. Bona noted they had their own traffic engineers, but the City would also hire a traffic study. He noted they had done this with other cities also. Lewis noted he did not know how much traffic engineering the City Engineer had, but he was letting Capstone know in advance that Council would be looking at this carefully so they did not damage the residents. He noted this would not affect him, but they were not on the Council to look out for themselves. He recommended Capstone might want to talk to the neighbors who appeared at the Planning Commission public hearing to see what their concerns were also.

Mr. Bona asked about the Comprehensive Plan amendment. Lewis responded he would never want to go along with a decision that was made by somebody else.

Mr. Bona stated many of the homes would be \$600,000. He noted the average home price would not be \$350,000. He stated the average home price would be over \$400,000. He indicated there were more of the larger homes being proposed.

DeRoche asked if Capstone had any concern about people paying that much to live on top of each other. Mundle noted people would pay for the larger homes.

DeRoche noted their decision did not affect the Councilmembers, but it affected the City as a whole. He stated they listened to the concerns of the people in the community and he was doing what the residents would want. He indicated that traffic was the biggest issue and right now they were guessing on this.

Mr. Bona acknowledged the traffic was a big issue for the Council. He asked Council what size homes they would recommend.

DeRoche asked if Capstone had done a market study. Mr. Bona responded they had not. DeRoche believed a market study should be done.

Lewis stated he didn't want to see similarity of the design and color either.

DeRoche asked what the traffic study timeframe was. Mr. Bona responded that the traffic study would be part of the preliminary plat. He stated if they left the meeting tonight and did not have any idea though the preliminary plat would cost a couple hundred thousand dollars to prepare. He noted they did not want to prepare a preliminary plat if they were on the wrong track with respect to the housing. He stated the traffic study would be happening at the same time as the EAW and other environmental reports and that was why they were trying to get as much specific information as they could to make the plan adjustments.

Mundle stated the only big issue he had was the 30 acres that was outside of the three-quarter line. He recognized the Code and the land use and they would figure out about traffic. He appreciated they were allowing a lot of open space and not putting houses on top of each other.

Mr. Bona thanked the Council for their time and acknowledged these conversations could be uncomfortable, but Capstone was trying to do what was best for the City and they would like to be a part of the City. He stated they really did care about the residents of East Bethel. He noted their office was in Ramsey and they would not be going anywhere when the development was done.

Informational; no action required.

4.0 B DEED Application – Nexus Bond Financing

Davis stated the City's bond counsel, Dorsey-Whitney, is requesting an application for local bond financing be signed and sent to the MN Department of Employment and Economic Development (DEED). There is nothing binding regarding the application. The application is just a summary of the financing that is provided to the State. Minnesota law only allows these tax-exempt financings to occur if the State knows about them first. Since the State is not underwriting the bonds, it's just a rubber stamp to make sure that state law procedures are being followed. The Anoka County application has already been sent, so Dorsey-Whitney is just taking the next step in the process for the bond issue.

Davis indicated Dorsey-Whitney understands the resolution approving the financing was conditioned on the final amended Conditional Use Permit and PILOT Agreement being approved at an upcoming meeting, but this application needs to get to State staff with sufficient time for them to review before they close their responsibilities for the Nexus financing. The review of the application by DEED will take a few weeks while Dorsey-Whitney finishes up their process with Nexus. This application is standard and DEED reviews all financing like this for every entity involved in tax exempt bonding. The submission of this application does not make the resolution any more effective and it does not bind the City to anything. It is just a statutory requirement that Dorsey-Whitney submit the application after the vote on the resolution.

Davis stated Dorsey-Whitney needs to send this to DEED early next week and requests that Council approve the signing of the DEED Signatures (issuer) DEED Application (Nexus – East Bethel) as exhibited in Attachment 1 and 2 to Council's packet.

Davis indicated the execution and filing of this application was already approved as part of the July 10 resolution, but he wanted to make sure that they had Council's understanding and full authorization for Mayor Lewis and myself to sign the documents.

Davis stated a representative from Dorsey-Whitney is in attendance at this meeting to answer any questions relating to this request.

Davis noted staff requests Council authorize the Mayor and City Administrator to sign the designated documents as presented in the attachments to Council's packet and submit those to DEED.

Mundle stated I'll make a motion to authorize the Mayor and City Administrator to sign the designated documents as presented in the attachments to Council's packet and submit those to DEED. DeRoche stated I'll second. Lewis asked any discussion? To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

4.0 C Anoka County Sheriff's Report

Lieutenant Derek Peters presented the June 2023, Sheriff's Report, stating the Sheriff's Department responded to 1 burglary, 2 thefts, 1 criminal sexual conduct, 4 assaults, 1 damage to property, 4 personal injury accidents, 19 PD accidents, 50 medical, 31 animal complaints, 23 alarms, 1 felony arrest, 7 misdemeanor arrests, 3 domestic assaults, 2 warrant arrests, 86 traffic stops, and 18 traffic arrests.

DeRoche asked if there were cameras put on the speed trailers. Lieutenant Peters responded they did not, but it would be a good idea as it would be a good opportunity for them to catch speeders. He indicated the trailers only worked to some degree and ultimately they had to start taking more enforcement action.

Informational; no action required.

4.0 D Fire Department Monthly Report

Fire Chief Sanow presented the June 2023 report and noted that they responded to 75 total calls, of which 51 were medical. He stated residents needed to check the DNR website daily for the burning regulations also.

DeRoche asked who investigates fires. Sanow responded North County Fire Investigations and the County Sheriff's office.

Informational; no action required.

4.0 E Supplemental Payment Summary

DeRoche stated I'll make a motion to approve the Consent Agenda. Mundle stated I'll second.

Lewis asked any discussion? To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

6.0 Consent Agenda

~~Item A: Approve Bills~~

Item B: Approve Meeting Minutes July 5, 2023 City Council Work Meeting

Item C: Approve Meeting Minutes, July 10 2023 City Council Meeting

~~Item D: Amendment of Section 9.8 of MNPEA Labor Agreement — Specialty Pay~~

DeRoche stated I'll make a motion to approve the Consent Agenda. Smith stated I'll second. Lewis asked any discussion? DeRoche requested to pull Item D. Smith requested to pull Item A.

To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

6.0 A Approve Bills

Smith inquired about the \$250 travel expense for Davis. Davis responded that was mileage for 2 months. He noted they were short vehicles and he drove his own vehicle.

Smith inquired about the Ekberg Lammers bills. He noted the Mayor had mentioned this at one time. Lewis stated he was looking for a detailed list, so this was a repeat request.

Davis apologized for not submitting that and he reviewed each charge and gave an explanation for them.

Smith stated it was important the Council was given a breakdown on the bills.

Lewis inquired about TIF-1. Davis responded that was the TIF payment to Cedar Creek Senior Living. He explained the TIF process to the Council.

Smith asked about the payment to the City of St. Paul. Davis responded that was for asphalt patching.

Smith stated I'll make a motion to approve Item A of the Consent Agenda. Miller stated I'll second.

Lewis asked any discussion? To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

6.0 D Amendment of Section 9.8 of MNPEA Labor Agreement – Specialty Pay

DeRoche asked if they were creating two new positions. Davis responded this was an amendment to the union contract and it would not be a new position. He noted it was a pay raise to compensate one employee who was taking on extra responsibilities in the maintenance field. He noted that employee had improved his skill set and he had done a lot of work so they were able to do more in-house repairs rather than ship the repairs out to commercial repair shops. He stated he had done a good job and the City wanted to make sure they retained him. He noted this was still below the rate other cities paid this type of a position.

DeRoche asked if they were setting a precedent that if somebody did a good job, they would create a new job position and give them more money than the next guy who did a great job. Davis responded this was on a case-by-case basis and it was a unique situation because he was already getting some specialty pay for some of the mechanical duties he took over. He indicated he had done a great job and this was an extra incentive to keep him in the City and not go anywhere else.

Mundle noted a part of this would be that the employee would be completing the ASE certification that would enable him for a raise, which was not unique with Public Works employees.

Lewis stated they had voted on this related item before and this employee's skill set was such that it was a net gain to the City to have him working for the City instead of looking for employment somewhere else.

DeRoche asked if they would just keep bumping people up. Lewis responded he would hope they had that problem, but he doubted they would have it.

Davis stated in the amendment to the union contract, the City controlled the designation of these and with only 8 staff members, only 1 person was needed in this position who was basically a mechanic without being given the mechanics title at this point.

DeRoche asked if this employee did more than just mechanical work because when he looked through the bills, the City paid a lot for maintenance on the equipment. He asked what the employee was doing that was saving money. Davis responded there was some specialty mechanical such as working on fire engines that needed to be sent out. He indicated that sometimes the City needed to turn a repair over quickly and this employee was the only one working on 30 pieces of equipment, so it would not get done in time. He noted they would have a lot of equipment sitting idle when they needed to have it in utilization.

DeRoche stated I'll make a motion to approve Item D of the Consent Agenda. Miller stated I'll second. Lewis asked any discussion? To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

7.0 New Business. Commission, Association, and Task Force Reports

No reports given.

8.0 Department Reports

8.0 A Community Development

8.0 A.1 Resolution 2023-55, Electrical Permit Inspection Services

Berg stated at the June 5, 2023 City Council Work Meeting staff present Council with information on a potential change in electrical inspection services which could create less confusion and more conveniences for residents as well as efficiencies for city staff in application process.

Berg noted prior to July 2011, all electrical inspections in the city were conducted by the Minnesota Department of Labor and Industry (DOLI). Changes in regulations provided Local Units of Government an option to contract privately for electrical inspection services.

Berg indicated in September 2011, the City of East Bethel contracted electrical inspections with a local inspector who could provide same day inspections and allowed the City to recover a percentage of the permit fees and work. In September 2018, this service transitioned to Sloth Inspections located in Andover. The city is not dissatisfied with Sloth Inspections however staff believe that utilizing the DOLI will be a better value for residents and contractors. Independent contracting of this service has experienced cost increases. The increased costs to cover inflationary expenses has not come with any additional benefits to residents and contractors. Additionally, the DOLI has improved their performance in this area therefore the difference between the two services has since equalized.

Berg stated the advantages of contracting the electrical inspection service are/were:

- 20 percent of the permit revenue is retained by the City to cover the administrative costs for this service

The disadvantages of contracting the electrical inspection service are/were:

- Confusion as who to contact with questions and for inspections.
- Cost increases passed on to residents for permitting.
- Scheduling inspections has been reduced to 2 days per week.
- Additional permits for projects cannot be issued until electrical inspections have been complete, which causes delays for residents and contractors.
- The financial incentives for the City have been minimized.

The advantages of going with DOLI are:

- Administration of the entire process is no longer a responsibility of or a cost to the City.
- Electrical questions, permits and inspections are in one place for contractors and residents.
- Permit costs would be less for contractors and residents.
- With surrounding cities and counties using the same service, there may advantages and efficiencies in scheduling.

Berg noted the disadvantages of contracting with the DOLI were:

- There could be some initial confusion with transition to new service.
- An estimated loss of annual revenue in the average amount of \$6,106.62/year.

Berg stated there seems to be no additional conveniences or savings for the residents, city or contractors that the independent contracting once provided. Of the 21 Cities in Anoka County, only 7 contract with an independent inspector.

Berg noted the existing contract with the independent inspector may be terminated with or without cause by either party with 30 days written notice.

Berg stated DOLI has requested a minimum of a 2-week notice to prepare for the assumption of the duties. Ordinance revisions will be necessary to reassign the authority to the DOLI and can be accomplished during the 30-day notice period.

Berg indicated revenues generated by the current contacted electrical services shows an average of \$6,106.62/ year over the last 5 years.

Berg stated staff estimates that on average each electrical permit requires an average of 30 minutes per permit to process from initial application through processing to final billing. The same 5-year

average shows that on average 1 electrical permit was issued per day. This puts processing and administrative costs at approximately \$6,760.00/year.

Berg recommended that Council approve Resolution 2023-55, authorizing the termination of the contract with the independent electrical inspector, by 30 day written notice, and designate authority of electrical permitting, fee collection and inspection services, by ordinance, to the Commissioner of the Minnesota Department of Labor and Industry beginning on September 1, 2023.

Smith stated I'll make a motion to approve Resolution 2023-55, Authorizing the Termination of the contract with the independent electrical inspector, by 30-day written notice, and designate authority of electrical permitting, fee collection, and inspection services, by Ordinance, to the Commissioner of the Minnesota Department of Labor and Industry beginning on September 1, 2023. DeRoche stated I'll second. Lewis asked any discussion? To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

8.0 B Engineer Report

None.

8.0 C City Attorney

8.0 C.1 Live Barn Contract – Ice Arena

Davis stated the St. Francis Youth Hockey Association has requested the City contract with LiveBarn, Inc. to install a fully automated sports broadcasting system for the delivery of on demand video and audio streaming to internet connected devices. LiveBarn is a video service that provides Live Streaming and On Demand replay of amateur and youth sports events. The LiveBarn service is available in most ice arenas in the state. Davis noted access to the LiveBarn services would be through paid subscription to the vendor.

Davis indicated the City Attorney reviewed the Live Barn Contract and his recommendations for contract changes/amendments have been accepted by Live Barn. These changes have been incorporated in the proposed contract (Attachment 2 to Council's packet) and are as follows:

Section 1.1, Amended: Installation shall include separate internet line.

Section 2.1 and 3.1, Amended: The Term of this Agreement is five years.

Section 6.1, Amended to include: Section 6.1 is a request by LiveBarn, not a binding obligation on Venue Owner.

Section 7.9, Amended: This Agreement is governed by and will be interpreted under the laws of the State of Minnesota. Any disputes shall be heard in the court of the State of Minnesota, venue Anoka County if a state district court action.

Section 7.10, Amended t: This Agreement is a public document under the Minnesota Data Practices Act.

Section 7.13, Added Section, which provides: Notwithstanding anything to the contrary, the Venue Agreement does not preclude any person or member of the public accessing Venue Owner's public facilities from creating their own video and/or audio at Venue Owner's Ice Rink Sheet; and this Venue Agreement shall be interpreted and applied in a manner that complies, and does not create or constitute a breach or a default, with existing agreements between Venue Owner and others respecting Venue Owner's Ice Rink Sheet.

Davis stated this matter was discussed by City Council at the October 3, 2022 Work Meeting but there was no follow up on the request.

Davis indicated per the proposed contract there is no cost for the Live Barn installation. The City would not be responsible for damage or malfunction of any equipment. LiveBarn will repair or replace at its cost any malfunctioning components which is required.

Davis stated the City might have costs, to be determined, for Wi-Fi upgrades was required and maintenance of this system in the arena. The City would realize revenues from Live Barn and ad sales in amount estimated to be \$300 – 500 per year.

Davis requested the City Council to consider approval of the contract with Live Barn for streaming and on demand video services for the East Bethel Ice Arena as exhibited in Attachment 2 to Council's packet.

Mundle stated I'll make a motion to approve the contract with Live Barn for streaming and on demand video services for the East Bethel Ice Arena as exhibited in Attachment 2 to the Council packet. Smith stated I'll second. Lewis asked any discussion?

DeRoche stated he did not know what this was. Davis explained the subscription service. DeRoche asked did they fall under a certain umbrella insurance. Davis responded the City Attorney could get address this, but they did put up signs that stated people were being videoed.

Larson stated the contract template met governmental units for public facilities. He indicated he had reviewed the contract and made the appropriate changes to the contract. He believed the contract was good legally.

DeRoche asked if releases were necessary for videotaping people. Davis responded this would be no different than someone going to a baseball game where the cameras showed the crowds.

Berg stated there was no expectation of privacy in a public venue.

Miller asked if these were fixed cameras or did they move. Alex Goodwin responded they were fixed cameras that would face one side of the arena and it would move back and forth to follow the game. She stated one camera would be on the ice and the other camera would be on the scoreboard. She noted this was good for parents who had multiple kids, so they could still watch them play.

Ms. Goodwin stated this was a subscription service where people could watch it on their TV, computer, or other streaming device. She indicated the profits came from people signing up for the subscription service. She noted the audience could be heard, but there was no announcing during the games.

To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

8.0 D Finance

None.

8.0 E Public Works

None.

8.0 F Fire Department

None.

8.0 G City Administrator Report

8.0 G.1 August Work Meeting Agenda

Lewis asked for an explanation as to why did the City own the Ice Arena. He requested this be put on the August 7, 2023 agenda.

Davis stated Council's monthly Work Meeting was scheduled for Monday, August 7, 2023 at 7:00 PM. The following items were recommended for discussion: 2024 Preliminary Budget Review and Discussion; and Utility Extension 184th Lane to Briarwood.

DeRoche did not think it was necessary to have an August Work Meeting.

9.0 – Other Items

9.0 A Staff Report

None.

9.0 B Council Reports

Smith noted at the June 26 meeting, Mundle abstained from one of the items. He asked why he had abstained. Mundle responded it was his prerogative to do that and he had no explanation he needed to give.

Miller stated Booster Days was fun and it was nice to see the residents there smiling and having a good time. He thanked everyone involved as well as the Booster Days Committee for doing a great job and he looked forward to working with them.

Miller stated at the last Council meeting the Council was called out for making snide remarks and exhibiting bad behavior to one of the people on the Booster Committee. He indicated the Council was told they humiliated her; that she was thinking of quitting; and, the Council owed her an apology. He indicated he took this seriously, especially since he was called out, so he went back and reviewed the video a couple of times.

Miller indicated he had spoken with the person who this was directed about and it was all a lie. He indicated she had never talked to the person that accused Council of doing this and she had not asked that person to do what she did. He noted she was not going to quit and the Council did not owe her an apology.

Miller stated this concerned him, especially when they were called out directly for doing something inappropriate or making someone feel a certain way. He noted they had someone on a Committee who was basically talking for another person without being asked to relay information. He was not sure how this should be handled, but it had to end. He stated it was one thing to be told they owed someone an apology, when in reality it turned out that person owed them an apology.

DeRoche agreed. He stated he had read the Minutes and also watched the video a couple of times to see where this came from. He noted the only humor he found that evening was when the Mayor was assigning commission liaisons and Smith made a comment he wanted the Sandhill Crane Commission because it meets every seven years. He indicated he did not know where this came from.

DeRoche stated especially with Commission people, it had to stop. He noted this Council had been in place for seven months and the name calling had to quit. He stated they were being told they were slandering people; they were doing this; they were doing that – and that was not happening.

DeRoche stated a Commission member could not put that hat on and then put another hat on. If they were a member of a Commission, they have to remember they are on a Commission. He stated even if it were a regular resident and those comments were made, he would still take offense to it. He agreed someone owed them an apology.

Lewis stated he had spoken with Ms. Dorn at the Booster Days information booth, who is the person who they were speaking of, and Ms. Dorn did a good job as the primary organizer of Booster Days. He indicated Ms. Dorn reiterated to him exactly what she said and the person who came before Council and grossly attacked them was misinformed.

Lewis stated that person needed to apologize to the Council or resign from the Parks Commission, which was the Commission she was on. He stated if people attacked others publicly, they should

have the “guts” to come and apologize to them publicly when the attack was found to be without merit.

Smith stated he agreed with everything he had heard and a public apology was in order. He requested this person come to the next Council meeting and apologize publicly to them. He stated if she refused to do that, then he wanted the Council to remove her from the Parks Commission because this was important, especially on a Commission where they all worked together and stood together on decisions. He indicated this was way out of line.

Miller stated it was one thing to say the truth, and a resident had a right to say whatever they wanted at a public form, but that was not the issue. The issue was when they said something that was a lie and doing it on behalf of someone else who had no knowledge of it. He stated they had to draw the line somewhere and this was it.

Davis asked if he should request her to come to the next Council meeting. Smith requested Davis contact her and report back to the Council on the discussion they had.

Mundle stated he attended the EDA meeting where they discussed the Business Retention and Expansion Program and possible steps to get this moving. He indicated they also discussed the Viking Meadows Concept Plan.

Lewis stated he had received emails and phone calls this past weekend from people upset about a music event on Klondike Avenue. He indicated DeRoche and himself went out and spoke with the owner, but they did not get much headway with him because complaints were still received. He indicated Davis had looked into this and no permit had been issued for this event.

Lewis stated he found it strange that people who were basically libertarian type folks wanted to maximize freedom and did not want undue laws. However, he indicated the laws they did have had to be obeyed and he wanted people to obey them and have equal justice under the law. He noted the fact that their forefathers were there 200 years ago, did not give them more credibility under the law and Court than people who just got here. He stated it did not matter if they had more or less money, what color or ethnicity they were, everyone had equal opportunity and equal treatment under the law and people had to obey the permit laws regarding noise. He stated some consequences had to be had, including a hard review of any permit next year.

Lewis indicated people had the right to quiet enjoyment of their property which meant their neighbor did not get to play loud music or have barking dogs all night.

Lewis stated he was not a fan of the Council Work Meetings. He noted the Ordinance called for two City Council meetings a month. He noted the Council did not get paid \$75 an hour to be here and he understood (especially with the budget discussions) that they needed to commit whatever time was required, but they really wanted to move back to two Council meetings a month as soon as possible.

Davis agreed that Council Work meetings were not required in the Ordinance and those Work Meetings were put there to review items so that Council could be better prepared, but if Council didn't want them, they did not have to have them.

Lewis believed they could do these things with email communication with respect to preparatory information. He stated he was speaking for at least three of the four Councilmembers and he did not know how Mundle felt about this.

Lewis stated the Council approved an Ordinance amendment earlier this year about definition of what a resident was, but the Ordinance did not define what a resident of the City was. He requested

“and was on the verging on demanding” that they verify that everyone who was on every Commission was a resident of the City and that it was specified in the Ordinance.

Davis asked Laron if that could be done retroactively. Larson responded that could not be done retroactively and what the Council had done was imposed a date of enactment, so anyone who would be applying for an appointment from the date of that Code requirement would show proof of residence, but they could not retroactively go back and make them prove they were a resident.

Lewis asked if this was true even if they were supposed to be a resident before the amendment. Larson responded that the change with respect to the definition of resident had particular proof of requirements and that was what he was speaking to. He stated this would be applied for all applicants to the various committees and commissions from that date forward. Lewis stated he disagreed.

Lewis stated he wanted added to the next Work Meeting the City Administrator’s position. He stated they needed to start dealing with it as a personnel issue.

Davis stated they could do this as a closed session at the next Council meeting. Lewis stated either way, but they needed to start getting real about it.

9.0 C Other

None.

10.0 D Adjourn

DeRoche stated I’ll make a motion to adjourn. Miller stated I’ll second. To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

Meeting adjourned at 9:32 PM.

Submitted by:

Kathy Altman

TimeSaver Off Site Secretarial, Inc.