

# EAST BETHEL SPECIAL CITY COUNCIL MEETING

August 7, 2023

The East Bethel City Council met on August 7, 2023, at 6:30 p.m. for a Special City Council meeting at City Hall.

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

ALSO PRESENT:               Jack Davis, City Administrator

## 1.0 Call to Order

The August 7, 2023, Special City Council meeting was called to order by Mayor Lewis at 6:34 p.m.

## 2.0 Adopt Agenda

**Mundle stated I'll make a motion to adopt tonight's 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.**

## 3.0 Conditional Use Permit Amendment - Nexus

Davis stated on August 1, 2018 the East Bethel City Council approved a Conditional Use Permit (CUP) for the operation of a Psychiatric Residential Treatment Facility (PRTF) at 900 189<sup>th</sup> Ave NE. The facility was operated briefly by Cambia Hills until closing in 2021. Nexus Diversified Community Services, a licensed operator for youth psychiatric residential treatment, intends on purchasing and reopening the facility continuing the previous service provided by Cambia Hills.

Davis noted the property is Zoned Single Family and Townhome Residential (R-2) District in which Licensed Residential Care Facility is permitted by ordinance as a Conditional Use.

Davis stated according to Minn. Stat. § 462.3595, Subd. 3. A conditional use permit is a property right that "runs with the land." That is, it attaches to and benefits the land and is not limited to a particular landowner. State statute says a conditional use permit remains in effect as long as the landowner continues to meet the conditions agreed upon.

Davis noted according to East Bethel Ord. Appendix A, Sec 04, Sub. 9, I. Holders of a CUP or IUP may propose amendments to the permit at any time following the procedures for a new permit set forth in this chapter. No significant changes in the circumstances or the scope of the permitted uses shall be undertaken without approval of those amendments by the city council. The city shall determine what constitutes significant change. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures and/or premises, and operational modifications resulting in increased external activities and traffic, and the like. The planning commission may recommend and the city council may approve significant changes and modifications to CUPs or IUPs, including the application of additional or revised conditions.

Davis stated NEXUS is proposing changes to the conditions which constitute changes that require amendment from the CUP that was approved relative to the Cambia Hills operation.

Davis stated the conditions of the Cambia CUP contain language no longer relevant to the property and are identified are as follows:

1. The CUP is only for the 60 bed Cambia Hills Project and is subject to all licensure requirements with the MN Dept. of Health and Human Services as a Psychiatric Residential Treatment

Facility Medicaid Certification/Supervised Living Facility Licensure, and subject to all of the licensing requirements as stipulated by MN Dept. of Health.

2. Any expansion of the facility beyond the 60 beds to the maximum 72 beds will require an amendment to the CUP.
3. Cambia Hills will be required to provide the City with a copy of their licensure with the MN Department of Health and Human Services on an annual basis.
4. Cambia Hills will be required to provide a copy to the City, the Anoka County Sheriff's Department, East Bethel Fire Department Safety and E911 plans for the facility.
5. Cambia Hills will be required to enter into a Developer's agreement with the City.
6. Cambia Hills will be required to enter into a Payment in Lieu of Taxes (PILOT) agreement with the City that would commence for pay 2020 taxes.

Davis indicated NEXUS is proposing to amend the CUP with the following:

1. A change from 60 to 40 beds and the age range as indicated on Nexus' license application.
2. A change in client demographic from a range of 6 - 17 years to an age range of 10 -19 years of age.
3. A "Supervised Living Facility" license is named specifically in the previous CUP which is not required by the Minnesota Department of Health.
4. Entering into a new Developers Agreement is unnecessary as the facility has been constructed and all requirements have been met.

Davis stated on July 25, 2023 the Planning Commission held a Public Hearing regarding the CUP request. The only public comment received was a written letter of support from Our Savior's Lutheran Church. After discussion regarding two potential additions to the proposed conditions, the members of the Planning Commission voted 4-1 recommending approval of Resolution 2023-54.

Davis requested the City Council review the Conditional Use Permit for Nexus and consider approval of Resolution 2023-54, as exhibited in Attachment 1 to Council's packet, for the property located at 900 189<sup>th</sup> NE, East Bethel, MN; PIN 31-33-23-11-0001.

**Mundle stated I'll make a motion to adopt Resolution 2023-54, A Resolution Approving a Conditional Use Permit Amendment to Allow for a Reduction in Beds from 60-40, a Demographics Change in Age Range from 6-17 Years of Age to 10-19 Years of Age, the Removal of "Supervised Living Facility" Licensing Requirement and the Requirement of the New Owner to Enter into a Developers Agreement for the Property Location at 900 189 Avenue NE, PIN 31-33-23-11-0001, East Bethel, MN, Anoka County. DeRoche stated I'll second.** Lewis asked any discussion?

Smith asked if Cambia was a residential treatment facility. Davis responded Cambia was a psychiatric residential treatment facility. He noted Cambia's clinic opened on March 16, 2020 and the Covid mandates were a week later, so they were restricted as to what they could do, which might have interfered with some of the language in some of their permits. He indicated Cambia closed in May, 2020.

Smith asked if they were now using the same CUP, if they were not a PRTF at that time, could this be done. Davis responded Cambia was operating as a PRTF.

Smith questioned the age of the students and asked if a resident was under 18 and they had not finished high school, could they continue to be a resident until they graduated, even if they were 17 years and 11 months old. Dr. Michelle Muray responded stated she had never seen a child linger that

long in one of their facilities. She noted they would have a hard time getting an authorization to treat a child for four years.

Smith noted the way the CUP was written, it said if they were under 18 and they were going for their high school diploma they could stay there until they reached it. He noted his concern was if they didn't go to school for four years before that due to mental health, could they stay at the facility until they are 22, or until they received their diploma. Dr. Murray responded she did not think so because she believed their school regulations would prevent that from happening. In addition, she indicated that would require them getting permission to treat somebody for four years, which was not likely to happen. She believed the wording there was meant to say they did not intend to take kids who were 18 or older. She stated the only thing they would do was take someone who might linger a little longer to get their GED, but she did not think they would get into the scenario that somebody had never been to high school. She noted they would have to have some other kind of plan for that.

Smith noted that was not the way the CUP was written. He noted they could have someone in the facility who was 20 and they had to be careful. Dr. Murray responded that their regulations and licensing requirement would take care of that. She noted they had very strict regulations about what age ranges could live together in the facility. She indicated there was no way a 22-year-old would be there as the State was not going to allow them to do that.

Miller asked what ages did their license allow. Dr. Murray responded it was from 10 to 19 years old.

Miller noted Nexus had agreed to pay for the special assessment on 89<sup>th</sup> and 187<sup>th</sup>. He asked if the City had ever assessed the residents on those roads. Davis responded the residents on the northside had been assessed, but they had been deferred until the property was either developed or sold.

Miller asked if this would be taken care of now so the residents would not have the assessment. Davis responded that was correct.

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

#### **4.0 Nexus PILOT Agreement**

Davis stated the vote for the City's participation in the conduit bond financing for Nexus was approved at the July 24, 2023 City Council Meeting pending approval of a Payment In Lieu Of Taxes (PILOT) Agreement along with an amended Conditional Use Permit (CUP). These items will be/were considered separately with the amended CUP condition addressed as item 3.0 on the agenda for City Council Special Meeting for August 7, 2023.

Davis indicated Nexus has agreed to enter into a PILOT Agreement (Attachment 2 to Council's packet) with the City and pay \$24,000 per year with an annual 2.5% increase in payments regardless of their revenues. This agreement would replace the previous Cambia payment formula, be specific to the Nexus operation and cover the City's cost for services to this property. This would be approximately a 500% increase over the payment that was to be received from Cambia Hills.

Davis noted the \$24,000 payment is in line with the tax scenarios that are exhibited in Attachment 4 to Council's packet, scenarios 1 and 2. This payment would cover the costs of public works, law enforcement, fire and other supporting city services that were experienced with the operation of Cambia Hills during their operation between April 1, 2020 and May 1, 2021 (Attachment 6 to Council's packet).

Davis stated the City Council is requested to approve Resolution 2023-56 as exhibited in Attachment 1 to Council's packet.

**DeRoche stated I'll make a motion to adopt Resolution 2023-56, A Resolution Approving a Payment in Lieu of Taxes (PILOT) Agreement with Nexus Diversified Community Services for the Property Location at 900 189 Avenue NE, PIN 31-33-23-11-0001, East Bethel, MN, Anoka County. Smith stated I'll second. Lewis asked any discussion?**

Smith asked on page 22/23, did the Attorney review this. Davis responded that the attorney wrote it.

Smith inquired about the wording regarding a default and the City certifying an assessment against a portion of the property. Davis responded if there was a default and the City assessed back to the property or the subsequent property owner, this was a requirement that Anoka County wanted in there. He noted if there was ever a default, they didn't want to be seen as having to collect on that, so it would fall back on the City to do a special assessment on the owner, whether in receivership or the future owner acquired the property.

Smith noted it said a portion of the property. Davis responded he believed they referred to the portion that was outstanding on the balance.

Smith indicated it also said the City had the right to collect interest, penalties, and late payments. Davis noted every year there was a payment schedule that showed the payments made, what the balance was, and the interest.

Smith asked if there should be language for what the payment late fees would be. Davis responded generally they would follow the County's policy for late fees.

Smith noted that was not in the document. Davis responded that could be added. He asked if that could be conditioned on the approval though so this could get done.

Lewis believed the amount could not be ascertained in advance so it would revert to the general law. He indicated they could not predetermine every possible situation/condition. Smith responded when it came to late fees, they could decide when they were doing that. He stated he wanted the City to have some recourse if something did happen.

Davis noted there was a County policy on late fees and that was what was generally followed.

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

## **5.0 Adjourn**

Special meeting adjourned at 7:00 p.m. by general consensus.

Submitted by:

Kathy Altman

*TimeSaver Off Site Secretarial, Inc.*