

EAST BETHEL CITY COUNCIL MEETING

August 14, 2023

The East Bethel City Council met on August 14, 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
Aaron Berg, Community Development Director

1.0 Call to Order

The August 14, 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. Mundle stated I'll second. Lewis asked any discussion?

Lewis added under the City Administrator's Report a discussion for storage containers.

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

Motion passes unanimously.

4.0 Presentations and Public Hearings

4.0 A Public Hearing: Ord Amendment, Sect 14-26 & 14-27 Electrical Inspections

Lewis opened the public hearing at 7:02 p.m.

Berg stated at the July 24, 2023 City Council meeting Resolution 2023-55 was approved authorizing staff to terminate the contract for Independent Electrical Inspection Services and prepare ordinance amendments authorizing the MN Department of Labor and Industry the authority of electrical code enforcement, collection of fees, and issuance of electrical permits on September 1, 2023.

Berg requested Council hold a Public Hearing to discuss revisions to the ordinance as exhibited in Attachment 1 to Council's packet, and consider approving those changes to City Ordinance, Chapter 14, Article II, Division 2, Electrical Code.

There were no comments received. Lewis closed the public hearing at 7:04 p.m.

Mundle stated I'll make a motion to adopt Ordinance No. 2023-15, An Ordinance Amending Chapter 14, Article II, Division 2, Section 14-26 & 14-27 of the East Bethel Code of Ordinances Regulating Application, Administration and Enforcement of the Electrical Code in the City of East Bethel. 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 B Concept Plan: Strandlund Farm, Rural Residential Subdivision

Berg stated that on June 15, 2023, Carrington Homes, LLC. submitted an application for a Concept Plan Review for a 21-lot rural residential development at the intersection of 221st Ave NE and Luan Drive NE.

Berg indicated the Planning Commission held a public hearing and review at its July 25th, 2023 meeting. There were 16 residents who signed up to speak at the public hearing. The comments generally address wildlife habitat, increased traffic on the gravel portion of 219Th Ave NE, proximity to existing homes, and driveway access onto the county road.

Berg stated based on the comments from the public and the Anoka County Highway Department staff met with Anoka County Highway Department Traffic Engineers in an attempt to address concerns of proposed additional accesses onto Luan Drive NE and 221ST Ave NE. At the conclusion of the meeting the feedback was provided to the developer who made alterations and amendments to the Concept Plan, to include two new internal streets, the removal of 5 driveway accesses onto County Road 74, the removal of a cul-de-sac that was abutting an existing residential property and the reduction of from 21 parcels to 20 parcels. See Attachment 3 for the amended Concept Plan.

With respect to the staff review, Berg indicated the property is located within the RR – Rural Residential Zoning District. Within the RR-Rural Residential zoning district the minimum lot size requirement is 2 acres, with a density not to exceed 1 unit per 2.5 acres. All lots within the proposed Strandlund Farm Subdivision meet the 2-acre minimum lot size and the 20 units' fall below the density requirements.

Berg stated according to Sec. 42 (7) A 2. Rural Residential Zone lot standards require a lot width of 200 feet at the right-of-way as well as the front building setback (40 feet). While addressing the comments from the public, staff and county traffic engineer the developer's amended plan has all 20 lots meet the minimum lot width at the front yard setback however 5 of the lots, on the newly created internal streets that end in a cul-de-sac are less than a 200-foot width at the right-of-way. These reductions can be addressed by the developer applying for a variance for lot width at the right-of way.

Berg indicated in order to eliminate an additional access on County Road 74 the developer is proposing a shared driveway access. Although Sec. 13 – General Building Standards 1A (4) requires driveways must meet a minimum setback of five feet from abutting lots, Anoka County Highway Department Policy states that accesses may be limited to combined accesses with adjoining lots and encourage local sub-dividing authorities to recommend this practice when evaluating approvals of new subdivisions. According to Sec. 10 – General Development Regulations 15. – Driveway Access and Standards (2) Driveway width shall be a minimum of 12 feet wide and cannot exceed 24 feet in width at the right-of-way. The developer could seek a variance for the side yard setbacks in order to address the shared access proposed of an access no larger than 24 feet wide.

Berg stated the development is proposed to be access off of Luan Drive NE creating an extension of 219th Ave NE from east to west connecting at the existing termination point of 2700 Block of 219th Ave NE. Luan Drive NE is also Anoka County Road 74 therefore, the Anoka County Highway Department is required to review the plan. They submitted the following preliminary comments on July 12, 2023.

- SB CR 74 right turn lane at the proposed City street access.
- A reconfigured Concept Plan so that all driveways are captured within the new City Street and no driveways have direct access to the county road.

Berg indicated comments from the Anoka County Highway Department on the amended concept plan were received on August 9, 2023.

- SB CR 74 right turn lane at the proposed City street access.
- The accesses on County Road 74 for Lot 8 and Lot 9 would likely be allowed because of the wetland considerations.
- A request for some additional Right of Way and the southern curve of County Road 74 for future safety engineering redesign

With respect to the Fire Department, Berg noted they requested consideration for the turning radius of fire apparatus when constructing cul-de-sacs.

With respect to Public Works, Berg stated their comments were in relationship to the potential upgrade of the existing gravel portion of 2700 block of 219th Ave NE beyond the new extension.

With respect to the Parks Commission, Berg noted the concept plan was reviewed at the August 8, 2023 Parks Commission meeting. They provided a recommendation of cash in lieu of park land with the additional recommendation to provide a trail easement from the north cul-de-sac to 221st for a future connection to the North Anoka County Regional Trail, if feasible.

Berg stated based on additional feedback received on the amended concept plan the developer can modify the plans prior to making an application of the preliminary plat. Berg requested the Council review the amended Concept Plan and advise the developer on any adjustments to the subdivision plan prior to the creation of a Preliminary Plat application.

Mundle stated he had a concern in the easement for the park trail. He noted if no easement was put in at this point, there would not be a future trail. Berg responded it was his understanding that trail connection coming from west to east across Anoka County was quite a ways out from happening. He indicated there was a potential it could parallel to 21st and make the turn at Luan as well instead of cutting through the residential neighborhood, but that was something that could be explored. Mundle agreed it was fine if they explored this further.

Miller asked if there were any future maps. Berg showed the maps and pointed out where the proposed development was as well as the proposed trail.

Lewis inquired about the shared driveway. Berg noted City Ordinance did not allow for shared driveways to the same parcel of property and the County would prefer to eliminate the number of accesses by allowing for a shared driveway, which was the County's policy.

Steve Strandlund, developer, asked if they clarified shared driveway or common lot. He indicated typically, common lot line was what was used in that situation and it was usually not shared. Berg responded they would need to seek a variance from each side for the driveway distance from the side yard.

Mr. Strandlund responded if the driveways were shared, but if there was a common lot line, there would be a space between them, but they would enter the County Road 15 to 20 feet apart. Berg responded he would look into that.

Mr. Strandlund noted that was what he had done in Linwood Township. He indicated he had never been asked to do a shared driveway.

Lewis stated this looked like a better layout to him, given the concerns about access points and he believed the neighbors would also be happier to not have to look at a cul-de-sac.

Informational; no action required.

4.0 C Concept Plan: Hidden Prairie, Rural Residential Subdivision

Berg presented staff's report indicating the City Council is asked to review the Concept Plan for a 17-lot Rural Residential development. This is a revision of a previously approved Preliminary Plat for the Hidden Pines Subdivision. The developer acquired additional adjacent land and has submitted a revised plan for consideration.

Berg stated the property is located within the RR – Rural Residential zoning district. Within the RR-Rural Residential zoning district the minimum lot size required is 2 acres, with a density not to exceed 1 unit per 2.5 acres. All lots within the proposed Hidden Prairie Subdivision meet the 2-acre minimum lot size and the 17 units' fall below the density requirements. Additionally, each lot meets the required minimum 200-foot width at the right-of-way setback line.

Berg noted Article VI. –Design Standards. Sec. 66-164. Streets (b) Cul-de-sac shall not be longer than 500 feet, including a terminal turnaround which shall be provided at the closed end, with a right-of-way radius of not less than 70 feet. A 50-foot street radius will be required on all cul-de-sacs. There are two cul-de-sacs located in the proposal. The south cul-de-sac is longer than the 500 feet however the north cul-de-sac is shorter than 500 feet. There are over 200 cul-de-sacs across the city with a majority of them exceeding 500 feet in length. The longest is approximately 1 mile and quarter and some can only be accessed from adjacent cities. The unique topographical features, expanse of wetlands and existing development constraints make it difficult to achieve multiple road accesses to parcels of property.

Berg stated the development will be accessed off of East Bethel Blvd/County Road 15; therefore, the Anoka County Highway Department is required to review the plan. They submitted a comment letter on December 27, 2022 for the previously approved preliminary plat. When asked to comment on the revised development plan, the ACHD confirmed that their previous from their original letter stand. The developer is required to abide by the requirements of the ACHD.

Berg indicated the internal street will be constructed to city standards with no temporary cul-de-sacs permitted.

Berg stated East Bethel Public Works comments were addressed during the previously approved preliminary plat and they have provided no new comments.

Berg noted the new concept plan was placed on the August 8, 2023 Parks Commission meeting and they recommended Park Dedication Fees in lieu of park land. The Parks Plan does not support a park in this area of the city.

Berg indicated at the July 25, 2023 Planning Commission a Public Hearing was held. Two residents spoke and asked questions about the status of an existing home on a parcel adjacent to the proposed development, lot sizes, and the cul-de-sac future connections. An additional comment was made to ensure that there were no HUD Homes being built in the subdivision. Planning Commissioner Terry was concerned about the length of the road leading to the cul-de-sac turn-arounds and the potential of residents being "cut off by obstructions" in terms of emergency response.

Berg stated based on the feedback received on the concept plan the developer can modify the plans prior to making an application of the preliminary plat. He indicated staff is requesting that City Council review the concept plan and advise the developer on any adjustments to the plan prior to a Preliminary Plat application.

Mundle asked if the City had a policy when a street was going into a parcel like this whether there was other potentially developable parcels around it. He also asked if there were any requirements

for a through street or a temporary cul-de-sac that would eventually go through for a street to connect. Berg responded that the City Ordinance dictated if a subdivision was to touch any undeveloped land that a future connection be established. However, he indicated in review of the concept plan, there were residential properties on all three sides of the proposed development.

Mundle stated he would like to see two potential streets meeting on the street coming up from the south on Yancy Street and the other parcel to the north of that also. Berg stated prior to this current owner owning the property the previous owner was attempting to do some development work and it was his understanding that the homesteaded parcel owners were not interested in providing any right-of-way access for the previous owner to be able to reach and create a subdivision there. He indicated one of the parcels was divided between two Watershed Districts also, so it was very complicated in terms of taxes and allowable buildings.

Berg stated some of the previous owner's problems were the inability to combine lots to create a subdivision on his own with a road between two different Watersheds.

Berg indicated from his research people were not interested in providing right-of-way access for any future subdivision in their neighborhood, so he didn't request the developer make any inquiries about it this time around as he assumed the response would probably be similar as before, knowing they were going to have some homes in their side yard.

Mundle stated he understood why they would not want to give a right-of-way, but at some future time if they sell and a developer buys it, they need to look at future City planning. Berg stated the City could always explore that and make an offer to purchase right-of-way if they wanted to.

Mundle responded he did not think the City would want to do that and he was just thinking down the road.

Miller referenced page 16 and asked if the cul-de-sacs were a little short. He indicated the Fire Chief had expressed concern about getting fire equipment in and out of different areas if they have to turn around. He thought cul-de-sacs had to be 100 feet across. Berg responded he did cite the Ordinance language out of the existing Code under Article Six where it stated it shall be no longer than 500 feet including a terminal turnaround which shall be provided at the closed end with a right-of-way radius of not less than 70 feet. He indicated a 50-foot street radius would be required on all cul-de-sacs, so the minimum is 70 feet according to the current Code.

Informational; no action required.

5.0 Public Forum

Lewis stated he had spoken with the City Administrator about the three-minute time limit for comments and he believed that was too short of a time, so they agreed on a five-minute time limit per person for public comment.

Brogan Phillips, 1919 241st Avenue NE, stated he wanted to address the dirt road he lived on and noted this year it had been really bad with the amount of dust on the road. He asked if there was something that could be done about it. He noted the road also got a washboard effect that happened quickly. He indicated they could not have their windows open and even with the windows shut they still got dust in their house. He also asked if the City could put up a speed limit sign less than 45 miles per hour.

DeRoche asked what was the speed limit on this road. Davis responded it was 55 mph.

Mr. Phillips stated some residents used the road like a drag strip. He asked what it would cost the residents if the road was paved. Davis explained how much the City would put towards the maintenance of culverts and the paving of a dirt road. He indicated 241st Avenue was not a good candidate for assessment because it was three-quarters of a mile from Highway 65 to London Avenue. He indicated there were not enough residents on that road to spread the cost out. He acknowledged it did get very dusty there, especially when there were period of no rain. He stated this was something staff could look at to see what could be done for dust control.

Davis explained the problem with lowering the speed limit to 30 mph was a State Statute requirement that said driveways had to be so many feet apart and he did not know if this road would qualify, but he would have staff look at it to see what could be done.

Lewis suggested looking at soap stock. He indicated this was a valid concern and asked how long was the road. Davis responded he believed the total length of the street, including London was a mile. He noted there might also be other things the City could look into. He suggested Mr. Phillips contact him to go over some options.

Davis stated with respect to the speeding on the road, he suggested getting the Deputies out there to run some radar. He didn't know if they would give out tickets, but they could give warning and advice to slow down. He noted staff would check into that also.

Greg Connell, 24180 London Street NE, agreed with Mr. Phillips' comments and stated the roads in this area were starting to be speedways. He noted this winter was particularly bad with ruts almost a foot deep. He appreciated anything the City could do to make the roads better in this area.

Mr. Connell stated people were also cutting the corner of London Street and 241st Avenue and people had lost control going around that corner.

Mundle asked what was the requirement for a stop sign there. Davis responded the City could put a stop sign in just about anywhere they think one was needed. He indicated one other option would be to put curve ahead signs in.

Mundle asked Mr. Connell if stop signs were put on both side, did he think that would help the problem. Mr. Connell responded he believed it would help if people stopped. He indicated he was surprised the speed limit was 55 mph on a rural dirt road. He stated he would like to see a speed limit sign put up for a reasonable speed. He did not believe having a police presence would slow people down if the speed limit was 55 mph.

Davis noted a police presence tended to slow people down, but that only occurred when the police were there.

Miller asked if people were cutting the corner from both sides. Mr. Connell responded they were.

Julie Dewitt, 22879 Staples Street NE, stated she was asking for help in regard to her property. She did not believe it should be in the Court system. She indicated on November 8, 2021, she was at a Council Meeting where the Council voted to leave her be and waived fees and revisit the situation, but it was never revisited and now charges had been brought up. She indicated they have five misdemeanors in the Court system and both her and her husband have been charged separately, even though she is 100 percent owner of the property. She did not believe her husband should have been charged.

Ms. Dewitt stated the City never revisited the issue. She indicated they were charged with having a two-story structure, but it was not two-story and it was under the requirements of needing a permit

for living in a camper. She noted they had a permit and it expired. She stated there was less than 100 square feet to finish, but her and her husband are unable to do so.

Ms. Dewitt this referred back to 2015 when they went to Court and the entire situation was remedied. And now it was being revisited all of the way back to 2000. She asked if there was a statute of limitations on this.

Ms. Dewitt stated the City had indicated things were complaint driven, but there had been no complaints. She noted the accessory building had been removed. She stated the vehicles on the property were gone, except for the school bus which they converted into an RV. She acknowledged the school bus was not licensed as a school bus and there were certain things that needed to be complete before it would be licensed as an RV also. She stated they had moved the school bus from the front to the backyard behind a fence. She noted she was not going to license it right now because she did that once which cost them \$1,000.

Ms. Dewitt stated she did not know what debris and junk the City was talking about. She noted they did have old tire rims along the fence line to the curb which were decorative.

Lewis stated the Council had been advised by the City Attorney they are to remain silent, listen, and not make any comments on this. He noted this was going to Court.

Ms. DeWitt stated the residents and Council needed to understand what was going on behind the scenes. Lewis responded he believed they all do and Council had seen Ms. DeWitt's packet she sent; however, Council could not adjudicate at this meeting. He indicated Council would be watching how her case turned out.

Ms. DeWitt noted she had made a data practices request and had not received everything. City Attorney Larson responded the City had fully produced any and all records with respect to the data practices request, and he was fairly confident the County did as well, so Ms. DeWitt had all of the documents the City has in her possession as well as any Anoka County documents. He stated the City as well as the Code Enforcement Officers were just looking for compliance.

Larson stated if Ms. DeWitt was saying there had been changes to the property to bring it within compliance, that was very important information and if Ms. DeWitt was amenable to allowing Code Enforcement to go out there and look at the property, that would be very helpful.

Larson noted at the end of the day, he hoped the DeWitts were also looking to civilly get this to a resolution and bring things into compliance. However, it sounded to him there were some outstanding matters and whether those could be figured out in a way that would work for both parties, that would be great. If not, he stated this would go to a Judge and the Judge would decide whether the facts given were such that the DeWitt's were or were not in violation of the City Code based upon the facts. He believed it was good under the Public Forum that Ms. DeWitt had an opportunity to present this as all residents have had such an opportunity as a matter of law.

Ms. DeWitt asked if the City was going to follow the legal process in one instance, but then request a private meeting with a resident who was going to Court and wasn't that against the legal process when she had an attorney. She noted her husband did not have an attorney and she is the one who should be charged and not him. She wanted the charges dropped against her husband.

Lewis stated the Judge would sort that all out.

6.0 Consent Agenda

~~Item A: Approve Bills~~

~~Item B: Approve Meeting Minutes July 24, 2023 City Council Meeting~~

Item C: Approve Garbage Hauler License Application for Curbside Waste, Inc.

Item D: Res. 2023-57, Declaring Domestic Violence Awareness Month

~~Item E: Res. 2023-58, TIF 1-3 Decertification of Thirteen Parcels~~

~~Item F: SRWMO Legal Funding Request~~

Item G: Res. 2023-59, Constitution Week Proclamation

Item H: Res. 2023-60, Approve Temporary Liquor License for Cedar-East Bethel Lions

Larson stated the standard operating procedure for the Council was to move to approve the Consent Agenda. He noticed under the *Robert's Rules of Procedure* they follow custom and practice, so he always follows custom and practice. He indicated he made note in the past they had a separate move and approval of the Consent Agenda and then they pull items.

Lewis asked if that was the correct way to do it. Larson responded there was a more efficient way of doing this if they want. He noted the more efficient way was since they already approved the agenda which includes the Consent Agenda, they did not need a second motion and they could go ahead and pull items, then they approve the Consent Agenda as pulled and then they go through the remaining items. He believed this would be a more efficient way and that would be his recommendation.

DeRoche requested to pull Item B. Lewis requested to pull Item A, E, and F.

DeRoche I'll make a motion to approve the Consent Agenda C, D, G, and H. Smith 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 A Approve Bills

Lewis asked what the Vector Solutions in the amount of \$3,000 was for. Davis responded Vector Solutions was a training program. He indicated some training programs were eligible for reimbursement, but he was not sure if this was one of them and he would need to check on it. He noted this would not be a yearly charge, it was done on an as needed basis or whenever their certifications were up.

Lewis pointed out they were not getting the legal details. He asked what \$10,200 was for. Davis responded that was for the prosecution service and there was no itemization for it as it was a flat fee. The other one was for civil service.

Lewis asked what the prosecution fees were for. Davis responded DeWitt, Craft, and he believed two or three others that were still in the process.

Lewis asked what the \$5,300 was for. Davis responded that was the flow charge they paid each month for the treatment of the sewage discharge.

Lewis asked what the EDA Civic Plus charge was for. Davis responded that was the website hosting fee that was charged to the EDA. He noted that was an annual charge.

Lewis 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 B Approve Meeting Minutes July 24, 2023 City Council Meeting

DeRoche noted on page 27, Line 16, Peterson should be changed to Peters.

Lewis requested Lieutenant Derek Peters also be added to those who were present at the meeting.

DeRoche stated on page 34, line 17, did not make sense. Davis responded staff would go back and look at the video. DeRoche said he did not think he said the developer was a greedy developer either on line 24. He requested this be checked also.

Larson stated in light of these changes, he recommended they be approved at the next Council meeting.

DeRoche stated I'll make a motion to table Item B to the next Council meeting. Smith 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 E Res. 2023-58, TIF 1-3 Decertification of Thirteen Parcels

Lewis asked if there was any time limit to decertifying this. He inquired if time was of the essence one way or the other. Davis responded they have another two weeks. He indicated Stacy Kvilvang from Ehlers was invited to come to the next meeting to answer any specific questions Council might have.

Lewis requested Davis pass onto Ehlers that he specifically wanted to know what was the net benefit of having this done, and how much actual benefit the cities received. Davis noted the basic test for TIF was the "but for test, but for the project would not be able to proceed." He believed they did some type of economic analysis also to show the positive benefits the City would receive along with other factors. He reviewed the current TIFs the City had for Council.

DeRoche stated I'll make a motion to table Item E to the next Council meeting. Smith 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 F SRWMO Legal Funding Request

Lewis noted this was a mess and he had spoken to Davis about it as well as to the Mayor of Ham Lake. He requested Mundle as the liaison give an update.

Mundle stated the meeting on August 2 had gone well and it was discovered there could have been some miscommunication between Ham Lake, the representatives on the WMO, and the elected officials because the elected officials were not actually attending the meetings. He indicated the elected officials said they would be at all future meetings going forward.

Mundle noted after the SRWMO meeting, Ham Lake Council met and he heard that the Ham Lake Council did not want to dissolve the JPA and they wanted to move forward. He noted one issue Ham Lake had was needing an unanimous vote on the JPA budget. Ham Lake suggested they have a three out of four approval of the budget process and the budget could only go up 3 percent or 5 percent.

Lewis asked if they needed to do the \$2,000 to do this at this point. Mundle responded they did because the timeframe and was taking so long. He noted the money had already been paid out by the cities, it had run out, and this would allow them to finish what they were doing. He stated they needed additional funding for the water management attorney and if it was not used, it would be returned back to the cities.

Lewis asked if Ham Lake would be contributing \$2,000 in addition to the \$1,000 unpaid support supplement that the other three members previously paid. Mundle responded Ham Lake would pay \$3,000.

Lewis stated I'll make a motion to approve Item F of the Consent Agenda. 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.**

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

No reports given.

8.0 Department Reports

8.0 A Community Development

None.

8.0 B Engineer Report

None.

8.0 C City Attorney

8.0 C.1 Cannabis Legislation Review

Davis stated City Attorney Eric Larson will review the provisions HF100A Bill which contains the rules and regulations for license issuance for a cannabis business. Mr. Larson will provide comments on recommendations to address this matter. Davis indicated a presentation and discussion item regarding the next steps to address licensing and other concerns related to this item.

Larson stated on June 26, 2023, he gave a report about the upcoming new cannabis legislation and at the time he informed the Council that at the appropriate time, he would probably be bringing a couple of recommendations.

Larson indicated he did have one recommendation to bring to Council for an action item. He recommended the City hold a public hearing at the next Council meeting for an Interim Moratorium Ordinance. Larson stated the basis for the Interim Moratorium Ordinance was to put a moratorium on the retail sale of any cannabis or hemp product within the City.

Larson noted effective August 1 of this year, cannabis products can be used and possessed under new legislation. The sale of cannabis is lawful, as long as they have a license from the State. However, the Office of Cannabis Management (OCM), which was formed under this new legislation, is just now getting up and running and will not be able to issue any licenses until at the earliest sometime in 2024 or possibly early 2025 before any businesses is eligible for a license.

Larson indicated that being the case since under the law, businesses can in anticipation start getting ready to essentially sell retail cannabis and hemp. He stated city attorneys are recommending to their cities to put a moratorium in place in order for every city and in this case, the City of East Bethel to review its Zoning Code and determine as with any business, where is the proper place for this type of business and revise the Codes to reflect that.

Larson stated for that reason, he recommended pursuant to this new legislation that the City hold a public hearing and then recommended enacting the proposed moratorium that was included in Council's packet. Larson recommended the public hearing be held on August 28 or as soon as practicable given the judgment of the Council.

Larson stated a second item he wanted to open up for discussion was whether the public consumption of cannabis and hemp beverage products, as well as the smoking of cannabis in public, should be permitted or prohibited in some form.

Mundle stated I'll make a motion to approve authorizing City staff to notice a public hearing to consider the adoption of the Interim Moratorium Ordinance to prohibit cannabis and hemp businesses in the City of East Bethel. Lewis stated I'll second. Lewis asked any discussion?

DeRoche asked if the State was not going to have licensing until after 2025, why were they doing this. He indicated cannabis could not be sold anyway. Larson responded that right now there were retail sales of edible cannabinoid as well as hemp products that were lawful under State law. He indicated one of his concerns was that existing businesses and edible cannabinoid retail sales were lawful within the City and if they put in an application, even if it sat for 18 months, they were now a lawful business that was entitled in the City to sell wherever they were located. Even if later the City changed the zoning district, the business could make the argument that they are a legal nonconforming and that zoning code did not apply. He stated that was a way he could see a business or individual essentially looking how they could carve out little niches and wedges and gain a little exception or even a monopoly within the City.

DeRoche noted a business could not sell it until they get a license, which would not be available until 2025, but now Larson mentioned a concern of people selling the cannabinoids, but if they don't have a license, they can't sell it. Larson responded that was not true. He noted businesses that sold edible cannabis, cannabinoids were not required to get a license by the State. He believed there might be some registration requirements within the County.

DeRoche stated he was confused because if the licensing was not going to be until 2025 and they did a moratorium, it was for 2024 and the moratorium would expire before someone could legally sell anyway. Larson responded once the OCM got up and running and everything together, then they would open it up for those businesses that want to engage in the retail sale of cannabis and hemp. He explained those businesses would then submit their application and once the OCM saw the application was complete, the City would be notified of where the business was looking to be located and if the business was in a zoning district that is permitted to sell retain cannabis and hemp. If, not then the license could not be issued.

Larson stated the other question was how many businesses did the City want to allow. He indicated right now, there was a minimum of one per 15,000 residents, but the City could allow more than that particular minimum also.

Larson explained one of the reasons he was recommending a moratorium was to allow staff time to determine the zoning questions about where was the proper place for this business type. He acknowledged this was a new frontier and he could not anticipate what additional questions might come up and how much guidance they would receive from the OCM. He stated the OCM was required to provide certain information and he was interested to see what particular questions and answers came back from them.

Larson stated what this was doing was providing a pause for the entire State, but also for the City to see how this is going to play out in the next year and what would the OCM provide as far as guidance, etc.

DeRoche asked other than procedurally, why did they need a moratorium to look at zoning. He also asked why they needed a year when they had a year to work with. Larson responded he did not want retail businesses to be unlawfully operating and then found out that the City was finding difficulties shutting them down.

Lewis stated he understood. Larson stated he wanted to make it very clear that within the Ordinance itself, it explicitly indicated that it does not impact the lawful sale, the current lawful sale of edible

cannabinoids, nor did it impact the current lawful sale of hemp, so it was not prohibiting anything that was lawful. He noted this would give a pause on everything so people did not get ahead of the City and they would not be able to do any cannabis hemp businesses until the City had done its zoning.

Lewis indicated this was new and unchartered territory also. DeRoche stated he saw things clearly and believed this was a control thing.

Smith stated a business had to have zoning or an ordinance for basically starting a business for like goods and services. Berg stated the City had their commercial zones, light industrial zones, and residential zones and there were allowable uses in each of the business or light industrial districts as well as conditions within those districts. He indicated they would have to look at each district or districts to see if they want to allow this type of a sale in that district.

Smith realized a cannabis business had to be in the right place, but his point was that they cannot just go out in a field somewhere and open this type of a business up. Berg responded technically, no they could not. Smith stated technically they should not be able to and he felt they were putting the cart before the horse.

Berg stated a moratorium just because it was put into effect and given a sunset date, did not mean they would not go back and remove it six months in advance. Or once a zoning ordinance was put in place and they were ready to start accepting licenses, the moratorium could be removed. He also believed Mundle's motion was just to have the public hearing. Mundle stated that was correct and it was just a motion for a public hearing.

DeRoche asked why did they have to have a moratorium and why could they not proceed with doing the work to do the zoning, etc. He stated basically what they were saying was they wanted to have a moratorium so they could control it, but the Council should decide what, where, and how things were going to happen. He stated this should not be done to control something. He stated if staff was going to work on the Ordinances and the guidelines, they should be able to do that without a moratorium.

DeRoche stated licensing was not going to happen until 2025, so why did they have to take the step for a moratorium when it didn't matter. He asked why create something, even if the moratorium could be pulled early. He stated it didn't matter if they pulled it or not and he found when something was put into an Ordinance nothing every got retracted. Berg responded the Council did get to set the date that the moratorium ended.

Mundle asked if the moratorium would be forced to end because the City could not deny the sale of cannabis. Larson responded the moratorium could go no later than January 1, 2025 at which point it would automatically come off as a matter of law. He noted given the fact that this was new legislation and was taking something that had been historically unlawful, the Legislature allowed for a moratorium to extend it until January 1, 2025 knowing the OCM probably would not be able to provide cities the type of zoning information they would need and they wanted to give the cities some time.

Larson stated this was a new Statute and he had many unanswered questions. He knew more about cannabis and hemp than he ever thought he would and he can answer a lot of questions, but another reason he wanted to put a pause on this was to be able to make sure the Council as well as those that are the Council's advisors, such as himself, could make informed decisions as much as possible. He agreed a zoning study would happen, but he wanted to have it under a pause situation.

Lewis stated he understood all they were voting on right now was to have a public hearing and he called the question.

Miller stated he wanted a public hearing as long as the motion was only for a public hearing.

To the motion, all in favor say aye. **Mundle, Lewis, and Miller.** Lewis asked any opposed? **Smith and DeRoche.** That motion passes. **Motion passes 3-2.**

Larson stated it was his duty as the City Attorney for the City of East Bethel, in light of the fact that as of August 1 of 2023, the use and possession of cannabis was lawful, and, as with many cities where liquor has long been of course, a lawful use and possession as well as tobacco, some cities have prohibited both the use of tobacco and liquor in public places, others have not, and others have chosen one over the other.

Larson indicated when he looked at the City of East Bethel's particular Code, he noticed that it prohibited the consumption of liquor in public places unless a license that had been issued for that consumption within a public place. He stated that prompted him to raise the question, what did the City of East Bethel want to do, if anything, as far as the smoking cannabis and hemp in parks and public places. He stated he was not making a recommendation but wanted to bring this to the Council to discuss along with the consumption of cannabis and hemp beverages and public places. He indicated if the Council decided it would like to investigate this, then staff could draft something up. He noted he would not be drafting the document.

Mundle asked if this would just be City property. Larson responded it would be City, State, and publicly-owned property. He stated this could also include public easements, sidewalks, etc.

DeRoche asked if someone walked outside their home, would they be banned. Berg responded someone's home, front porch, backyard, etc. was protected. DeRoche stated he was not in favor of it being banned in the street or sidewalk, but he could understand a park and schools.

Lewis asked if alcohol was banned in the same places. Mundle responded it was. Lewis stated he would see sidewalks and public parks where it was banned.

Mundle stated he could see doing this just for parks and City property. Lewis agreed that was more rationale and he would agree to a ban in public parks and possibly other areas depending on the definition.

Larson stated a definition could be drafted up so it met the intended purpose for parks and City property.

Mundle stated he wouldn't say public, but rather say City-owned property. Berg stated many cities had drafted public consumption Ordinances already, so there were Ordinances out there that could be easily modified or copies that would fit the needs of East Bethel.

DeRoche asked who would enforce, would it be on the back of the City to prosecute, and who would pay for the prosecution. Larson responded they did have some models to look at from other cities and he just needed to know how to tweak it so it would fit the objective of the Council.

Larson stated with any City Ordinance when there were violations, it would be the public safety personnel to enforce it. He indicated one of the things he looked at when drafting things like this was to make sure he was using similar language so that the protocols law enforcement was doing when they are dealing with alcohol consumption as well as when they are dealing with unlawful smoking of tobacco, that they already have established customs and procedures that they could rely on.

Larson pointed out the City had a flat rate for prosecution also.

Lewis suggested having the public hearing first. Larson noted the public hearing would be on the moratorium. He stated something could be drafted up regarding public consumption and tweaked until they get a final language that was agreeable to everyone. He noted he could bring this to a workshop for their review.

Smith asked how much would this cost residents to get this done because this was over and above their normal fee. Larson responded that was the reason he did not want to do any drafting until he understood what the Council wanted. He informed Smith that he tried to be very smart as to where he put his time and attention for and on behalf of the City as the City Attorney.

Smith stated he was trying to be conservative with the resident's money.

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 2024 Preliminary Budget Discussion

Davis stated on May 10, 2023 the City Finance Committee met with City Staff to review and discuss the 2024 budget. The Finance Committee also discussed the City general fund balance, the actual City financial performance for the prior year and the City's debt service requirements. Concurrent to the Finance Committee meeting, the base budget was submitted to Department Heads for preparation of their individual department budgets. On July 5, 2023 City Department Heads presented their department budgets to the City Council. On August 7, 2023 Paul Lenzmeier from the Anoka County Sheriff's Department presented the 2024 Law Enforcement Contract and any items not reviewed at the July 5, 2023 Work Meeting were discussed.

Davis noted the League of MN Cities released guidance in relation to a one-time allotment of Public Safety Aid from the State of Minnesota on August 7, 2023. The City's preliminary allotment for this aid is \$515,964. The final amount will be certified by the MN Department of Revenue by September 1, 2023. Once these funds are certified the City will know the exact amount they will receive. The disbursement of the final funding amounts is scheduled for December 26, 2023. These funds can only to be used to fund public safety related expenditure and the City's contract with Anoka County for Law Enforcement Services is an eligible use.

Davis indicated the two primary open items as it pertains to the 2024 General Fund Budget are the proposal to add one FTE to the Fire Department and the potential use of fund balance to lessen the levy increase.

Davis stated the Fire Department has proposed to add one FTE to their staff in 2024—Outreach Coordinator. The amount allocated for this position is \$83,400, which includes salary and benefits.

Davis indicated the City has a fund balance policy that states that the City will maintain an unassigned fund balance in the General fund of at least 40% of next year's budgeted expenditures. In practice, the City has historically maintained and targeted 50% of next years budgeted expenditures to ensure the general fund has adequate cash flow in order to meet operational needs.

Davis noted the City ended 2022 with a general fund balance of \$3,672,546. Given this amount, estimates for 2023 general fund financial performance and the proposed 2024 expenditure budget the City could potentially use roughly \$348,500 in unassigned fund balance above the 50% threshold to offset the proposed levy increase in 2024.

Davis stated without use of the public safety funds or the fund balance, the 2024 increase would be 5.5%. Using the Public Safety Funds or the fund balance would result in a 0% increase.

Davis noted the remaining schedule for the discussion and consideration of the 2024 Budget is tentatively set as:

- Other Council Meeting agenda items as required prior to September 11, 2023
- September 11 Council Meeting: Consideration of the Preliminary 2024 Budget and Levy
- December 11 Council Meeting: Consideration of the Final 2024 Budget and Levy

Davis stated City Council is requested to propose any further changes to the draft preliminary 2024 Budget and provide direction to staff regarding any adjustments to be made in the budget proposal. DeRoche asked if the funds had to be used on law enforcement and fire. Davis responded it could not be used to buy equipment. He indicated if they applied this money to the budget when they started out next year they were going to have a revenue gap because this was a one and done deal. He stated if they applied all this to the Sheriff's contract, they could use it for that purpose and then they would have some unrestricted funds going over into the general fund surplus that they could use to apply to the budget next year to makeup for that revenue gap.

Lewis stated he was going to ask a question on Smith's favorite topic which was the legal fees that went up 9 percent. Davis responded that was a built-in increase in the contract that went up each year. He indicated the City was requiring more legal options and legal services. He stated they were becoming a more litigious society and wanted to make sure they covered themselves in ways now that they had not thought they would have to do in the past.

Lewis stated he had a concern that there was no way to verify the police department numbers and while he was not second guessing the police department's honesty or ability to do accounting, he wanted some verification of the numbers. Davis stated staff could make that request to the Sheriff's Department. He noted he had checked with surrounding cities just to make sure the rates were being charged equally.

Lewis stated one of his goals for the Fire Department was less money accumulation at the top and more of it making it to the firefighters or frontline people whether that's equipment or hourly pay. Lewis asked why couldn't the person who was the City's Fire Inspector cover fire inspections three months out of the year and have time to do the recruitment as well as apply for SAFER grants.

Lewis stated another thing that was a mystery to him was having five or six members of the Fire Department be certified to do fire inspections. He stated it has always been if someone asked questions in this area, they are attacking the firefighters, which was "baloney". He stated he was looking out for the firefighters and wanted to know that all of the funds were being used efficiently and to make as much money as possible for the frontline people and not just in pensions. He stated pensions were great, but they were deferred money, so that was not the same as being able to pay their bills now. Davis stated he would have the Fire Chief at the next meeting to answer these questions, or if Lewis wanted to meet with the Chief one-on-one, that could be arranged also.

Lewis stated the other issue that annoyed him was that the City Administrator negotiated the union pay increase, which then became the basis for non-union staff pay, which he believed was a conflict of interest. He believed there should be at least one elected official working with the City

Administrator on that negotiation. Davis responded that could be arranged at the next union negotiation, but he needed to know who the negotiator would be.

Lewis stated he has had conversations with his colleagues and the reason things are the way they are, was because people allow it to be that way. He indicated things had to be changed from time to time. He noted it was easy when they are dealing with things like this to just let Davis do it, but it was not appropriate, and they would at least be working hand-in-hand on it.

Lewis stated he also did not believe that whatever the union staff got as a pay increase should not necessarily translate into what staff received. Davis responded Council could set standards for that.

Miller agreed with Lewis with respect to finding more pay for the Fire Department and this should be a priority. He believed they could get more firefighters if the firefighters received more money. He stated they would go through the budget line-by-line if they needed to, to find the funds for the firefighters. Davis responded that could be the major topic of their discussion at the meeting on the 28th.

Smith also agreed with Miller and Lewis. He stated as a former firefighter, it was difficult taking time away from the family and being gone in the middle of the night. He stated the firefighters definitely need a pay increase and he knew it could be found in the budget. He indicated they could work together on it and make the decision to make the cuts where they need to so the firefighters could get the money they deserved. Davis responded in the end, the Council was the one who made the final call on the budget.

DeRoche agreed with the others and noted while he was not a firefighter, he was an EMT for years and people had no idea what these guys saw. He believed they would get more firefighters if they received more pay. He indicated the training was difficult and it was hard to get up during the middle of the night to go and fight a fire. He noted they had to have law enforcement, firefighters, and public works.

Lewis stated without all of that, they would not have a functioning City.

Mundle stated he would be saying the same things he had said over the years and he was 100 percent behind the Fire Department.

8.0 G.2 Storage Container Discussion

Davis stated there has been a proposal that was submitted to City Council to the Planning Commission to amend an Ordinance as it relates to accessory storage containers. He indicated this has been with the Planning Commission on two occasions and has been tabled.

Davis indicated staff was requesting further direction to the Planning Commission, to direct staff to hold a public hearing on this matter for August the 28th 2023 and submit this to the Planning Commission in that interim for their comments and recommendations, so that a decision can be made on these amendments.

Davis stated what they were looking for now are some specifics that can be provided to the Planning Commission, maybe in the form of a draft Ordinance, so a public hearing could be held and the changes approved at the August 28 meeting.

Miller stated he had it in a different form. He indicated this was presented in May, June, July, and August and it was tabled twice. He indicated he did not think it could get any simpler than this.

Miller indicated he was still looking for it to be fine-tuned if need be, but this was exactly what he thought it should be. He noted it was simple, it was easy, it was rural, non-agricultural, and they could go from there. He stated if anybody wanted to change it that was fine.

Miller stated they want it fine-tuned. He noted this is what more than a couple of residents had contacted him about. He indicated he did not want to wait any more and this had taken too long to do something.

Miller noted he had no idea why they could not get this stuff passed. He pointed out that this was something he handed in earlier. He was looking at a sheet that says these were the recommendations and he did not know where that came from as it was not what he had typed out.

Lewis stated that this had dragged on more than long enough and one way or the other they had got to talk about calling the question. Davis responded that was why as a part of the proposal, they were requesting the authorization to go ahead and advertise for the public hearing in two weeks and at that date it could be considered for approval.

Lewis asked if the Planning Commission had a public hearing on this. Davis responded they had not and either body could hold the public hearing. He indicated this was the best way for Council to expedite this, but the Planning Commission was having their August meeting on the 22nd, so Council could have them look at this and give their comments and recommendations prior to the 28th.

Berg stated the Planning Commission held two public hearings, one for the architectural features in the business or light industrial zone, and the second one was for the expansion of exterior storage in the business or light industrial zone. He stated they had not discussed the exterior storage containers as this was the next one coming up. He indicated this was scheduled for conversation on the 22nd by the Planning Commission level and then it would be presented to Council on the 28th where they could hold the public hearing.

Berg indicated it was his understanding of State law as well as the City Code that any Ordinance that touches zoning related issues had to allow the Planning Commission, or the Commission in charge of zoning, an opportunity to review it and provide comment and either approval or denial to the governing body to makes the final decision.

DeRoche asked if this had been at two Planning Commission Meetings. Berg responded it had been tabled by the Planning Commission.

Smith stated it should not have been tabled by the Planning Commission. He asked if the Planning Commission could hold the public hearing on August 22nd. Berg responded that was not possible as this required a 10-day notice and there was not 10 days before the Planning Commission's meeting.

Smith believed what Miller had presented was fine the way it was and wanted to "move this thing along and get it done."

Berg pointed out again that State law as well as City Code said that any zoning or land use issue amendment must be reviewed by the Planning Commission for a recommendation. He agreed this needed to be handled and while it was on the previous two Planning Commission's agenda, it had to be tabled because they had other application items that had taken the bulk of their meetings.

Smith stated this was tabled, but the Planning Commissioners discussed food trucks. He believed Berg should not have suggested that this be tabled last month.

Lewis asked if they should send this to the Planning Commission to look over and make their decision and have the public hearing at the Council meeting at the end of the month so there was sufficient time to get it advertised.

Berg stated after the public hearing the Council could make any corrections, additions, amendments, or they could pass what they had in front of them. He noted they could listen or not listen to the Planning Commission's recommendations also. Lewis responded, "we haven't heard jack squat from the Planning Commission."

DeRoche asked how did all the zoning happen so quickly in the sewer water district when the apartments were coming in when the TIF was coming through. Lewis responded he was not on the Council and could not provide the answer. He noted Council was expressing their will and they wanted this done.

Berg stated there would be three Ordinance revisions items on the Planning Commission agenda on August 22nd and this would be one of the three.

Lewis asked where did the food truck issue come from. Berg responded that the City continued to receive requests from mobile food vendors wanting to know what the licensing requirements the City had. He indicated they also had a complaint about the taco truck at a local business. He stated that prompted him to look at the City Ordinances and he found that the City did not have anything that encompassed a mobile food vendor. He indicated the County required a license, but the City did not.

Miller asked when was that first proposed. Berg responded last month. He noted last month the Planning Commission had on its agenda the accessory storage containers and the food truck proposals. He stated the Planning Commission chose to table them and then Commissioner Terry said they could look at the food truck as it would not take that long. However, he indicated the food truck discussion took over an hour. He noted this matter would be the first one on the Planning Commission's agenda.

Smith stated he found it "kind of funny how the other ones kind of just got sidestepped, but then this food truck all of a sudden just comes in and that's a priority. That's baloney." He stated in his opinion, this stuff has been sitting here forever and they need to get this stuff done faster and quit dragging their feet because it doesn't get done. He noted it was ridiculous.

9.0 – Other Items

9.0 A Staff Report

Davis stated he had been approached by Linwood Township to see if the City would be interested in exploring the possibility of doing a joint contract with the Anoka County Sheriff's Department to see if the costs could be lowered. He told them that they might be interested in that and he would bring it up to the Council. He did not know if there was still time to do this, but they might want to consider it for next year.

DeRoche stated Lindwood only had one Deputy. Davis responded this was not something they would do to supplement or increase their hours and it would have to be beneficial to both parties. He indicated this was proposed because Linwood's contract went up to \$40,000 and for them this was big. He stated another problem was that Linwood being a Township had to adopt their budget in March, and they did add some extra funds in there. He stated Linwood just wanted to know if East Bethel would be interested in sitting down and exploring the possibility, which he believed would not hurt anything as maybe there was opportunity there and maybe there wasn't.

DeRoche noted Linwood did back the City up when it came to fires also.

9.0 B Council Reports

Mundle stated that they had a Highway 65 Coalition meeting and the project for Blaine from 99th to 107th had become fully funded for \$197 million in just 2.5 years. He noted this would be a whole lot of stuff including overpasses, underpasses. He indicated the entire big plan had been drawn out.

Lewis asked if the presentation was online. Mundle responded he did not think it was. He indicated the project would probably not start until late 2025 or early 2026 and they estimated it would take 2 years to get all that done. He stated there was also another segment that was essentially just Bunker Lake Boulevard where they would do an overpass. After that, they would be focusing on the segment that was from Spring Lake Park to 93rd in Blaine where the interchange at Highway 10 would be reconfigured. Mundle stated there would also be an overlay between Spring Lake Park to East Bethel next fall.

Mundle stated National Night out was good and he attended six different parties and met a lot of residents. He thanked all of the residents who hosted the parties and invited the Council to attend. He also thanked the Fire Department for the transportation.

Miller stated they had a Booster Days meeting and the team did an excellent job, but they are always looking for more volunteers.

9.0 C Other

None.

10.0 Adjourn

Lewis 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 9:42 PM.

Submitted by:

Kathy Altman

TimeSaver Off Site Secretarial, Inc.