

# EAST BETHEL CITY COUNCIL MEETING

August 28, 2023

The East Bethel City Council met on August 28, 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  
Mike Jeziorski, Deputy City Administrator/Finance Director

## 1.0 Call to Order

The August 28, 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? 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 TIF Overview – Stacie Kvilvang, Ehlers

#### 4.0 A.1 Res 2023-58, TIF 1-3 Decertification of Thirteen Parcels

Davis stated in 2017 the City of East Bethel authorized the creation of TIF District 1-3 in order to provide gap financing for the construction of the forty-eight-unit Viking Preserve housing development. In order for TIF District 1-3 to receive tax increment, the parcels needed to meet low- and moderate-income requirements. Thirteen parcels did not meet these income qualification thresholds and, therefore, needed to be removed from the TIF district and decertified by the County. The excess tax increment received since the inception of this district for these parcels will be returned to the County once the City receives the final tax settlement in December 2023.

Davis indicated Stacie Kvilvang, our financial consultant with Ehlers, will present a brief background of Tax Increment Financing (TIF) and review the proposal for the decertification of the properties that do not meet the TIF requirements for the Viking Preserve Project.

Davis recommended City Council consider approval of the Resolution 2023-58.

Stacie Kvilvang, Ehlers, presented an overview on tax increment financing, the City's TIF districts, a status of where all four of the districts were at, and the action before the Council tonight.

Ms. Kvilvang noted tax increment financing was the ability to capture all or a portion of the increased taxes from a development. She indicated when the TIF laws were created in the 1970's, they did not want any of the taxing jurisdictions to be harmed by a development. She stated when a district was created, it was frozen through time and they would continue to collect the taxes off of that. She noted that increased valuation over time was what they captured for the tax increment. She indicated once the district was done at the end of the term, the City received 100 percent of those

taxes that are on it. She stated it was just the incremental value in taxes that they were able to receive.

Ms. Kvilvang indicated what was not captured in tax increment was the base taxes and the market value taxes.

Ms. Kvilvang stated tax increments could be used for land acquisition, demolition, remediation, site improvements such as grading and excavation, underground parking – basically anything from the ground down. She indicated when it came to affordable housing developments, those could be used for anything that was a qualified cost for affordable housing.

Ms. Kvilvang indicated the City utilized two types of districts, the Housing Tax Increment Districts which had a 26-year term, and the Economic Development District which were for greenfield development. She noted the future for economic development was in manufacturing warehouse. She stated it was about job creation on those TIF district which had a maximum of 9 years of eligibility that they could collect the increment from.

Ms. Kvilvang noted there were two types of things that could happen in a housing district – it could either be rental housing or owner-occupied housing. She noted the qualifications for a rental project was at least 20 percent of the units had to be affordable at 50 percent of the area median income or below, or 40 percent of the units had to be affordable at 60 percent of the area median income or below. She indicated these figures were set annually by HUD. She noted all of the metro councils fell under those same guidelines for income.

Ms. Kvilvang stated once a developer constructed a project, they had to report to the City annually to show that they had met the threshold.

Ms. Kvilvang indicated for owner occupied housing, the City had a little bit more leeway. She noted 95 percent of the lots or units sold had to be for low and moderate income. She stated the first purchaser that was the test threshold that they look at and review to see if they meet the criteria, then after that it could be sold to anybody else in the future.

Ms. Kvilvang stated the City had three housing TIF districts, which she summarized for Council. She indicated once the obligations were all paid off in those districts, the City would have a choice to keep the district open and collect the tax increment which they could utilize that increment for other affordable housing developments in the City.

Lewis thanked Ms. Kvilvang for her concise presentation.

DeRoche asked what was the advantage for a City to keep a TIF open or just close it. Ms. Kvilvang responded the only benefit for a housing district was if they want to have a funding source, which they were able to capture those dollars to do something else they wanted to do for affordable housing. Otherwise, she stated it was best to decertify and get it back on the tax rolls.

Ms. Kvilvang stated with economic development districts or other districts, the City did not get that choice. She indicated once those obligations were paid off, they were legally required to decertify those. She noted the City only got a choice on the housing districts.

Lewis asked how much had to be repaid on the 13 parcels. Ms. Kvilvang responded that those calculations had been done, but she did not have them with her at the meeting.

Lewis asked how did it relate to the two large bills to approve. Jeziorski responded those were the pay as you go notes for the TIF 1-2 and 1-3. He indicated those would be on the bill list semi-annually moving forward.

**Mundle stated I'll make a motion to adopt Resolution 2023-58, Resolution Authorizing the Elimination and Decertification of Certain Parcels from the City's Tax Increment Financing District no. 1-3 (Viking Preserve). 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 Public Hearing: 3.25% Off-Sale Liquor License Application for River Country Coop**

Davis stated that staff is recommending that Council conduct a public hearing to take comments from the public regarding an application and request for a 3.2% Off Sale Liquor License for River Country Cooperative.

Davis indicated the Mayor will open the Public Hearing and invite comments on this license application. When there are no additional comments, a motion to close the hearing should be offered followed by a second and a vote on the motion.

Davis noted at the conclusion of the public hearing, Council will consider the approval of a 3.2% Off Sale Liquor License for River Country Cooperative dba: Holiday #2653861.

Davis stated a background check has been completed without issues. All application materials and fees have been submitted for the 3.2% Off Sale Liquor License.

Davis indicated final approval of the license would be contingent on the approval of State Commissioner of Public Safety. Approval of Council is required prior to action by the State.

Davis recommended conducting the public hearing to receive comments on the 3.2% Off Sale Liquor License for River Country Cooperative dba: Holiday #2653861. Once the public hearing is closed and if there are no reasons to deny the license, staff recommends Council consider approval of a 3.2% Off Sale Liquor license for River Country Cooperative dba: Holiday #2653861 located at 1341 187<sup>th</sup> Lane NE in East Bethel.

Lewis opened the public hearing at 7:16 p.m.

No comments were made.

Lewis closed the public hearing at 7:17 p.m.

**DeRoche stated I'll make a motion to approve the 3.2 Off Sale Liquor License for River Country Cooperative dba: Holiday #2653861 located at 1341 187<sup>th</sup> Lane NE, East Bethel. 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.**

#### **4.0 C Anoka County Sheriff's Report**

Sergeant Justin Nelson, presented the July 2023, Sheriff's Report, stating the Sheriff's Department responded to 455 calls for service including 2 burglaries, 1 assault, and 70 medicals. He noted theft calls were up from 2 in June to 9 in July. He stated there were 11 warrant arrests, which was 2 arrests more than the previous highest total of 9, which they saw in April. He noted Deputy traffic enforcement efforts resulted in the issuance of 22 traffic citations.

DeRoche requested additional patrol be added by CR 22 and Lexington during the evening rush hour. Sargeant Nelson responded he would let the deputies know.

Anoka County Sheriff Brad Wise stated he was present to talk about the contract and the City's concerns regarding it. He presented an overview of the current times and law enforcement staffing. He noted if the City wanted to have a fully staffed law enforcement agency in the State they needed four things – support of the citizens for the work that was being done; support of the elected officials;

a good culture in the law enforcement agency; and competitive wages. He stated if they did not have any one of those four things, they would be in trouble.

Sheriff Wise noted in Minnesota they have had places where citizen support or elected official support was publicly waning and it has been done so in a way that it had caused the number of young people interested in the profession to nearly disappear. He noted that it was nobody in the room's fault, but they were all paying the price for it.

Sheriff Wise indicated with respect to wages, he did not see the "wild west of labor contracts" as going away any time soon and they would need to get used to it. He noted most law enforcement officers in the State were represented by a union and the Council could read the labor contracts online if they wanted.

Sheriff Wise stated he was a fiscal conservative, but he needed the police to be paid, or he would not have cops working for him. He noted the City of Blaine had their starting wage of \$44.77 per hour for a police officer, which made them among the highest in the State of Minnesota. He indicated Blaine did that to ensure that they were a destination law enforcement agency and they were scooping up the people that were leaving other law enforcement agencies that did not have the kind of support from the citizens and the City Council.

Sheriff Wise indicated a couple of weeks ago the City of Goodhue lost its police department over a wage dispute where all seven police officers resigned the same day. He indicated ten years ago that would have been unthinkable because there would not have been seven places for those officers to go, but now those same officers had multiple job offers.

Sheriff Wise stated he did not like to have to present East Bethel with a 14 percent increase for the law enforcement contract and if it would not be for public safety, many Cities would be laying off in their police departments.

Lewis thanked Sheriff Wise for his presentation. He acknowledged that the Council was not too happy about the 14 percent increase, but they understood it was based on reality. He requested in the future there was better communication and the City would be advised so they were not taken by surprise.

Lewis questioned why Ham Lake cost was about the same as East Bethels when they had 35 percent more calls. He stated he did not know if the numbers were correct, and they also did not know what the formula was.

Lewis noted Ham Lake had 38 percent more population, but East Bethel was larger geographically. He asked how the pro-rata was made, especially the administrative costs. Sheriff Wise responded he could not give a satisfactory answer off the top of his head with respect to that. He noted it was up to the city councils deciding on what level of service they wanted and whether that might be a function of response times, or it could be the number of calls per service for each individual deputy.

Sheriff Wise believed East Bethel made a higher priority to have more coverage for the number of citizens and that it was a decision of the Council to have done that as opposed to bare bones services and minimal law enforcement services. He indicated somewhere along the line East Bethel decided they wanted deputy coverage that was equal to what Ham Lake was offered, despite the fact that East Bethel's population was smaller.

Sheriff Wise stated in cities like East Bethel the primary benefit of having a contract with the Sheriff's office was that they had built in backup and they do not need to ask for a mutual aid assist. He recommended the Council have a discussion about the level of service and how they wanted to

approach the level of service, being respectful to the taxpayers. He indicated he had heard that residents do not mind paying if they know what they were paying for.

Sheriff Wise indicated Ham Lake had “dialed back” its level of service also.

Lewis asked what was the basis for the proration. He noted Ham Lake had 35 percent more calls, but East Bethel was paying essentially the same amount within 10 percent. Sheriff Wise responded that East Bethel citizens were getting more of the deputies time, along with more investigative time.

Lewis asked if the City should look at the total number of hours and dial it back to 32 or 30 hours. Sheriff Wise responded he was suggesting the City take a look at the level of service and talk to their residents and listen to those residents. He noted service level mattered to people who were victims and they do not want to feel like they were unimportant, or that the officer or deputy had something that they needed to get to that was more important than that person. He indicated there was a lot to be said for that time investment in the community.

Sheriff Wise recommended the City perform a community survey and ask the residents about the service and whether or not people felt this was something important. He believed the residents liked the level of service they were receiving and the time the deputies spent with them.

Lewis requested Sheriff Wise have his staff write out the methodology and send it to him, particularly how things were calculated and prorated. He noted the administrative proration was a complete black box. Sheriff Wise noted the more calls for service probably equaled to more administrative time, but he would ask his staff to get the information to the City Administrator.

**Informational; no action required.**

#### **4.0 D Fire Department Monthly Report**

Fire Chief Sanow presented the July 2023 report and noted that they responded to 85 calls, of which 69 were medical, 2 crashes, 6 alarms, 3 burning/smoke, 2 fires, 1 mutual aid, and one other. He reminded the citizens that school was going to be back in session soon and to use extra caution on the roads as kids would be walking to the buses.

Sanow stated garden debris and leaves were not allowed to be burned and they needed to be composted.

Sanow reminded the residents to check their CO and smoke detectors, along with having their furnace checked with the upcoming change of seasons.

Mundle asked how the wildfire danger was. Sanow responded it was looking good, but with the start of fall soon everything would be drying out and they would get busy again. He expected burning restrictions would be coming back again sometime in September.

**Informational; no action required.**

#### **4.0 E Public Hearing: Accessory Storage Container**

Berg presented staff's report indicating Councilmember Tim Miller has proposed amendments to City Ordinance Appendix A – Zoning, Section 10-4, Accessory Storage Containers.

Berg noted MN State Statute 462.357 OFFICIAL CONTROLS: ZONING ORDINANCE. Subd. 4.

Amendments. An amendment to a zoning ordinance may be initiated by the governing body, the planning agency, or by petition of affected property owners as defined in the zoning ordinance. An amendment not initiated by the planning agency shall be referred to the planning agency, if there is one, for study and report and may not be acted upon by the governing body until it has received the

recommendation of the planning agency on the proposed amendment or until 60 days have elapsed from the date of reference of the amendment without a report by the planning agency.

East Bethel Appendix A. – Zoning, Sec 04. – Applications and Procedures 11. - Zoning ordinance text and map amendments

D. Procedure.

The Planning Commission shall consider possible adverse effects of the proposed amendment.

- 1) The Planning Commission shall make findings of fact and make a recommendation on the request. Such recommendation shall be in writing and accompanied by the report and recommendation of the city staff.
- 2) Upon receiving the report and recommendation of the Planning Commission and the city staff, the city shall schedule the application for consideration by the city council. Such reports and recommendations should be entered in and made a part of the permanent record of the city council meeting.

Section 10-4. Accessory storage containers, as defined in Section 01. General Provisions of Administration, are not a permitted use within the City of East Bethel.

Berg stated the definition of an accessory storage container is found in Appendix A – Zoning, Section 1 -9 Definitions. Accessory storage container: A container placed outdoors and used for the storage of goods, materials, or merchandise that is used in connection with a lawful principal or accessory use of the lot. The term "accessory storage container" includes, but is not limited to, containers such as boxcars, semi-trailers, roll-off containers, slide-off containers, railroad cars, piggyback containers, and portable moving and storage containers. The term "accessory storage containers" does not include a garage, barn, or storage shed accessory to a dwelling provided such structure is not of a type designed, equipped, or customarily used for over-the-road transport of goods, materials, or merchandise.

Berg indicated staff has reviewed the Ordinance amendment proposal and are supportive of an amendment to the existing ordinance. A staff recommend that the General Regulations applicable to Detached Accessory Structures, as defined in Section 14. Sub. 2., should be included.

Berg stated the Planning Commission review the amendment proposal at its August 22, 2023 meeting. At the conclusion of its review, which included a lengthy discussion, the Planning Commission made a recommendation, by a 4-3 vote, that City Council consider the approval of the proposed amendment with the inclusion of a 5-acre minimum lot size requirement, a minimum of a Class 5 base or pad for placement and to require that storage containers meet the zoning setback regulations contained in Section 14. - Detached Accessory Structures. It should be noted that additions recommended by the Planning Commission do conflict with language in the original amendment proposal, which was also included in the approval. Additional modification to the Planning Commission recommendation would be necessary to clarify the conflict.

Berg indicated the City Council is requested to hold a public hearing, review the Staff and Planning Commission's recommendation, and approve, deny, or modify the proposed ordinance amendment as presented in Ordinance 2023-18.

Lewis opened the public hearing at 7:56 p.m.

Rita Biljan, 23600 Goodhue Street, stated she did not want to have storage containers, but at a bare minimum, they should have minimum acreage requirements and some screening as well as requiring

containers to be in backyards. She noted there were a lot of people with small lots and they did not have a place to put a container that would be out of site of their neighbors. She did not believe storage containers belonged in residential areas.

Julie DeWitt, 22879 Staples Street, stated storage containers should be allowed on 2 or 3 acres. He asked how were they going to justify three accessory structures versus one storage container. Berg stated under the proposed amendment they would not be considered a detached accessory structure, but rather they would just be a storage container in and of itself. He indicated there was no request in the proposal to utilize another storage container. He noted that could be addressed in a different version of the Ordinance.

DeWitt asked if a resident would be entitled to three accessory structures and one storage container. Berg responded as proposed there was no prohibition for storage containers above and beyond the allowable detached accessory structures.

Lewis closed the public hearing at 8:00 p.m.

DeRoche stated if someone did not have enough property, they could not build a large enough shed to put their stuff in, so this would give people something they could put their stuff in. He noted not everyone could afford a wooden shed. He stated if storage containers were not allowed on anything less than 5 acres, that would eliminate everyone on Coon Lake. He indicated some people mentioned that the storage container should be the same color as the house; he did not care. He stated that storage containers were secure and waterproof. He does not know what sizes there are, but he does not care for the 5-acre minimum. He concluded that if you want people to get their stuff out of their yard, they need a place to put it.

Miller agreed with DeRoche and stated this Ordinance was not coming from him, but from residents he had talked to prior to being elected. He indicated he had no interest in obtaining a storage container, but just because he didn't have an interest in something did not mean that the residents and their interests ended.

Miller stated he had done some research on storage containers and found that they were rated to last 25 years, whereas a storage shed was rated for 10 years. He stated storage containers were basically insect and mouse proof because of how they were constructed. He indicated storage containers were basically fire retardant. He noted storage companies use these containers all over for storing their tools and materials in a safe manner.

Miller stated if he was one of the residents asking for a storage container, why could they not be used if they had the appropriate land in place to put it. He indicated he was not fond of the five-acre requirements and he hoped that people would understand that they are not just going to put it up in their backyard in the middle of yard and they would have to have some thought process with this.

Miller believed people would take the Ordinance seriously and would want to have the storage container look good. He stated storage containers held their value also and people wanted them. He indicated the current Ordinance did not allow people to have storage containers, and this was going to free the residents up to basically using their own properties the way they saw fit and that was why the residents moved to East Bethel so they could have land.

Miller stated he was in favor of either a concrete pad or class five for the storage container as they were heavy and would sink into the ground otherwise.

DeRoche believed they had to be careful when they were discussing this because a lot of the Commissions did not like this and did not want to see it, which he did not think was appropriate because they are supposed to represent everyone.

Smith stated he agreed and there was a lot of "I don't like that and I don't like this," that came from the Planning Commission meeting. He stated DeRoche was right and the residents had spoken to them and they want to be able to store their stuff. He indicated it made sense what Miller had come up with and Miller had done a lot of research on this and it sounded like a great thing. He also did not agree with the five acres and wanted it less.

Mundle stated he did not agree with this Ordinance and believed it would open up a Pandora's Box of issues. He believed the Ordinance was incomplete. Mundle indicated when putting together an Ordinance, they had to look at it three different ways for the people that want it, for the people who do not want it, and how the City would enforce it. He stated it was important to address as many factors as they could and then come up with new Ordinances because things were not retroactive with Ordinances. He noted that if this Ordinance was passed tonight and in the next six months, it was found that there was a lot of issues, they could change the Ordinance, but everything that had happened in the previous six months would have been grandfathered in.

Mundle asked if storage containers should be licensed by the City and/or should a permit be granted essentially like a building permit, to ensure that the storage container complied with the Ordinance. With respect to placement, he asked if it would meet all of the setbacks, just like an accessory structure would need to be inspected once it was placed. With respect to acreage, five acres had been recommended. He noted Oak Grove had a 7-acre minimum. He asked what kind of screening requirements would there be and would there be a certain maximum number of containers allowed. He asked what usage would be allowed for storage containers (personal, commercial, home-based). He asked how would the City ensure that the containers stayed in good condition and did not deteriorate.

Mundle noted in the definitions they had including, but not limited to box cars, semi-trailers, roll off containers, and railroad cars. He asked if this was just for storage containers, or would they allow semi-trailers as well. He indicated these things should be addressed. He asked what was the City specifically allowing.

Mundle indicated the storage container under number 2 would comply with other applicable City ordinances and regulations, but which ones specifically. He asked would signs and logos be allowed. He asked was there any stipulations as to when they were to be removed. He asked if they would be allowed on rental properties. He asked should they be anchored into the ground and did they need a foundation. He asked if they needed a concrete pad under them and if so, how would this affect the impervious surfaces in the area. He asked if this would count toward any other accessory structure. He asked how would they ensure that this did not adversely affect any adjoining properties. He asked if these containers could be modified, and if so would new engineering be needed for them.

Mundle asked what portions of Section 14 applied and would a detached accessory structure be allowed before the principal structure.

DeRoche asked Mundle where all of these concerns had been since the original concept was proposed in April. He indicated all of a sudden there was a public hearing and Mundle had a list. He indicated they could not plan for everything that could go wrong. He stated if it did not work, then they could tweak it. He indicated they would not constantly say no they were not going to do this or no they were not going to do that if it was not affecting public safety, public health, and it was not an

imminent danger to anyone. He noted people had stuff in their yards and people would get citations if they do not get it out because it was visible so this would give them somewhere to put their stuff.

DeRoche asked Mundle why all of his concerns were coming out now when he could have emailed staff at any time with his questions and concerns. He noted it was kind of like Mundle wanted to start all over from day one and he was not in favor of all of the questions.

Mundle stated Council had not addressed this before and now it had gotten to the point for the Council to discuss it.

DeRoche stated they had been discussing this for quite a while and it had not gotten to the Council previously because the Planning Commission had tabled their discussion for two months in a row. Mundle noted the Planning Commission had very full agendas for two months in a row. DeRoche disagreed with Mundle and stated he was at the Planning Commission meetings.

Lewis stated it was interesting that Mundle had brought this up because they had discussed the need to improve effectiveness of reasonable consistent Code enforcement and the Council had said this was something they needed to discuss, but so far they had not as it related to this issue. He indicated this was a matter of Code enforcement and asked how did they enforce the Code.

Lewis stated this was a balancing act and they did not want to constrain the residents so they did not have quiet enjoyment of their property, but on the other hand they do not want people doing whatever they want. He agreed with DeRoche that they could not prevent every possible negative outcome, but they also do not want it where people were allowed to have zero regard for their neighbors either.

Lewis noted he himself had someone with a shipping container down the street from him, so he knew what Mundle was talking about, but he indicated it was a balancing act where they were paid the big bucks to resolve.

Berg stated he had some questions for clarification purposes. He noted the storage container was to comply with all setback requirements as specified in the Zoning Ordinance, but what setback requirements were they looking at. He asked if they were looking at residence, septic system, garage, detached accessory, etc.

Berg noted the storage container shall comply with all other applicable City Ordinances and regulations, but that was very vague. He suggested they make the storage container included in definition of a detached accessory structure, which then they would have everything set for setbacks.

DeRoche stated he wanted to go along with what Miller originally came up with.

Mundle stated he wanted to take the time to get it as soon as they could before it was passed. He acknowledged they could not plan for some things, but some of the things were right in front of them. He wanted them to figure out the storage versus cargo versus shipping versus semi-trailer definition along with whether they should be anchored to the ground, what kind of foundation should they have, should they apply with want standards for setbacks, should they be licensed or permitted, should they be inspected to ensure they were complying. He stated those were reasonable items.

DeRoche believed this was stonewalling because there had been more than ample opportunity to discuss this and make the changes that were necessary. Mundle stated this was the first time Council had discussed this.

DeRoche stated the Planning Commission should have taken care of these issues and questions. Mundle responded that the Planning Commission did not have all of these questions. DeRoche noted a lot of the questions were at the Planning Commission meeting.

Smith stated this had been on the Planning Commission's agenda several times and all they had to do was read their packet and they could see everything. He indicated everyone has had the information since May and that was enough time to have questions.

Larson stated if he was reading the Council correctly, there appeared to be at least somewhat of a resonance positively with what Berg had with respect to matching storage container and accessory structure with the same setbacks. He stated what Council could do was move to approve with directing staff to essentially bring language back to the next Council meeting that was in conformance with what they had passed as far as an accessory structure and then Council could adopt that new language. Or, if it needed to be tweaked at that point, they at least had the language before them.

Smith stated if they agreed to this, he wanted Miller involved with it and he didn't want staff making the decisions on their own.

DeRoche did not believe attaching this to the detached structure ordinances was going to create more issues and it was basically going to tell people the same thing they had already been hearing.

DeRoche called the question.

Berg noted they did not actually have a Resolution in front of them. He stated Council had the actual Ordinance proposal amendments. He indicated if they wanted to direct staff to change something that was fine, but there was no Resolution to approve. He indicated this was a draft Ordinance.

Larson stated Council could make a motion to direct staff to revise said Ordinance and Miller should be included in the process.

**Lewis stated I'll make a motion to direct staff to revise said Ordinance and include Miller in the process. Smith stated I'll second.** Lewis asked any discussion? To the motion, all in favor say aye. **Lewis, Miller, and Smith.** Lewis asked any opposed? **DeRoche and Mundle** That motion passes. **Motion passes 3-2.**

#### **4.0 F Capstone Concept Plan**

Berg presented staff's report indicating on June 21, 2023 the City Council and Planning Commission held a Joint Special Meeting where Capstone Homes, INC. presented a Concept Plan for a Mixed Use/ PUD residential redevelopment of the Viking Meadows Golf Course located at 1788 Viking Blvd NE.

Berg noted at the June 27, 2023 Planning Commission Meeting a Public Hearing was held and feedback was provided to the developer on the Concept Plan proposal. Berg indicated at the July 24, 2023 City Council Meeting the Concept Plan proposal was presented to the City Council for feedback. Berg stated on August 16, 2023, the developer submitted a revised Concept Plan for the proposed PUD which is attached to the meeting packet for review as Attachment 3.

Berg stated the property is located on 129 acres of land which spans across the zoning classifications of Mixed Use and Single Family Residential. The proposal shows that of the 95 acres which are developable, 69 acres will contain the proposed 252 lots. In addition, the amended proposal contains 60 acres of open space, which also includes 8.1 acres of park and recreation space. This revised concept plan removes the Rural Residential 30-acre parcel south of 189th Ave NE from the plan. Adjustments made across the entire development have resulted in a decrease of 98 individual lots.

Berg indicated according to City Code Section 49 – 6 Development Procedure. Mixed-use and single-use projects. The application procedure and applicable general requirements pertaining to planned unit developments (PUD) shall apply to the MXU district, subject to any exceptions, modifications, or additions set forth in the ordinance. Amendments to the PUD can be proposed and implemented upon city council approval.

Berg noted the application procedure shall include submittal and approval by the City Council of a concept plan prior to the submittal of a PUD request.

Berg stated according to Section 66 – Subdivisions – Article II. - Concept Plan. *A concept plan review does not convey any legal development rights to the applicant.*

Berg indicated according to 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. The purpose of a PUD is to allow flexibility and variation from conventional ordinance standards in exchange for higher standards of development design and creativity, architectural control, natural resource protection, landscaping, public parks, public and private open space protection, pedestrian access, and multi-use corridor opportunities. The PUD provisions are also intended to promote the efficient use of land and promote cost-effective public and private infrastructure systems.*

Berg stated as part of the preliminary review, staff has offered the following comments:

- Access – Ingress and egress to the development will be accessible from two locations, Viking Blvd. NE, and Sandhill Parkway NE. The original proposal contained a potential connection at 189<sup>th</sup> Ave NE. This is still being requested to be configured as an emergency only access point. The City Engineer, Public Works Manager, and city staff are working in conjunction with the Anoka County Highway Department to evaluate overall traffic considerations of the area in response to concerns expressed during the first concept plan proposal. A traffic study will still be required.
- Open Space - A primary function for a PUD is to encourage development that preserves and enhances the natural characteristics and valuable natural resources of a site and not force intense developments that use all portions of a given site to arrive at the maximum intensity or density allowed. Capstone has proposed over 60 acres of open green space which includes over 8.1 acres of community park and recreation space with walking trails and unique landscaped buffers. The park area is an increase from the original 1-acre park proposal.
- 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. Staff recommends that the streets be city-maintained public streets throughout the development.
- Housing - The amended plan consists of 252 new single-family homes which is a reduction from the original 350 proposed. A combination of 50', 70', and 80' lots are proposed as opposed to the 45' and 65' lots that were included in the original proposal.
- City Services - The plan indicates the new single-family homes will each be connected to the city sewer and water as the entire development is within the Metropolitan Urban Service Area (MUSA).

- Density - The plan consist of an overall density for the proposed developable land that is under 3 units per acres, which is the city-wide density standard based on the 2040 Comprehensive Plan for all properties in the MUSA.
- Parks Commission - The developer presented the Concept Plan to the Parks Commission on August 8<sup>th</sup>, 2023. The Parks Commission was agreeable to the \$1500 fee per lot and 8.1 acres of land. The developer has requested the cash be used for the improvements to the active play area with addition of a nature play facility.
- Financial Impact - The revised project plan would generate a conservative estimate of \$280,100 in annual city property tax revenues at build out in 2028. The city will also collect \$1,431,360 in City SAC and WAC fees over the life of the project (2024 -2028). This amount would pay off the approximately 70 percent of the principal balance of the METC Reserve Capacity Loan. In addition, the increased housing units would improve the demographics in the local market area which are needed to attract basic retail, food, and grocery services to the city.

Berg stated the Planning Commission, by a 6-1 vote, made a recommendation of approval of the amended concept to the City Council at its August 22, 2023 meeting. Berg indicated staff is requesting that City Council consider approval of the amended Concept Plan as exhibited in Attachment 3, by Resolution 2023 – 61, A Resolution Approving the Concept Plan of “Viking Meadows.”

Miller inquired where the commercial area was. Berg pointed out on the map where the commercial area would be noting that area was outside of the actual development.

Miller asked on the frontage road was there going to be any retail. He also asked if the City would make more from retail connections with SAC/WAC and for property taxes if it was along that section. Davis responded the City would make more on property taxes if it was commercial as commercial was essentially taxed twice the rate residents were. He indicated, however, there was no telling what SAC/WAC charges would be as it was dependent upon the use. He stated if there was a high-water user, then they would collect more. He stated generally the higher residential properties produce more in the Elvidge project where there was five acres of an out lot that was slated for commercial use. He noted the market would determine what would be successful there. He stated the Elvidge project was better suited and better located than the Capstone project was. He indicated there was probably little, if any, property within the Capstone boundary that was suitable for commercial use, with the exception of the northwest corner as pointed out by Berg.

DeRoche asked how was the Park Commission’s recommendation of \$1,500 per lot determined. Davis responded earlier in the year it was decided to go to a per lot requirement because other formatting was not meeting the needs for park development, acquisition, and improvements. He indicated it was changed at that time from 10 percent of appraised value and went to \$1,500 per lot on this type of a development. On a residential subdivision it was \$2,000 per lot.

DeRoche asked where was the active play area and additional nature play facility located. Berg pointed out on the map where the play areas were being proposed.

Lewis asked how could they use that amount of money in just those parks. Davis responded it depended on what the final design was going to be. He indicated it was very expensive. He believed if the final cost was less than what the park dedication fee was the remainder would be put in cash in the parks acquisition.

Matt Barker, Capstone, stated it was his understanding that there were two options – the developer was asked to give land, or they were asked to contribute dollars. He noted in this case, they were looking at doing both. He stated they suggested that not only would they pay the park fee of \$1,500 per lot, but they would also have a space that they believed would work well that could be designated as park given to the City for park use. He indicated they had presented the concept at the Park Commission meeting and noted this was a great resource to any community and it was a great amenity for a neighborhood, as well as it was a place for the community to come together.

Miller asked if they were creating ponds and wetland areas in this design. Mr. Barker responded that the ponds were avoiding the wetland areas. He noted there was a wetland delineation that was completed for the property. He indicated the ponds were for stormwater retention and they could not interact with the wetlands in their design.

Davis stated this was not going to be 160 acres of house after house after house and there would be a lot of breaks and separation between some of densities, which would give the appearance of a much lower density development even though they were still at 252 units.

Miller asked if they were creating their own wetlands there. Davis responded those would not be considered wetlands. He indicated they could go into the creation of wetlands, but they had to go through a lengthy process with the DNR and if they failed then they had to replace them somewhere else. He did not think that was something the City wanted to get into.

DeRoche asked if there was an ecological impact statement done on this project. Berg responded that was something that could be potentially part of the statutory requirements based on units and area. He indicated they would defer to the City Engineer to make those recommendations of additional items rather than on what the Statute required.

Barker stated there had been a phase one environmental study completed on the property and they had done extensive geological testing to determine depths of soil and materials. He indicated they were creating stormwater ponds and they were moving that material to raise the site to make sure that the site was draining properly.

Lewis asked if a concept plan review conveyed any legal development rights to the application versus a concept plan approval. Berg responded until they reached the preliminary plat stage, just because Council potentially approved a concept plan tonight did not mean the developer would get to put a shovel in the ground tomorrow. He indicated this was only giving the developer acknowledgement of the local unit that the plan that they had proposed was something that was desirable to the community and would fit within the guidelines of the Comprehensive Plan. He stated they would need to bring a preliminary plat to meet those guidelines which would give final approval and at that time that would convey some legal authority to the developer.

Mundle stated right now they were essentially giving the developer feedback and if the Council liked this proposal, it gave the developer some acknowledgement that they probably had a safe investment to go ahead and spend large amounts of money to do a preliminary plat. Berg agreed and noted this would also kick off the hiring of an engineering firm to do the traffic study, to start requesting the environmental assessments, and getting approval letters from the Corps.

Davis stated this gave the developer assurance that they could proceed with the project as long as their preliminary plat essentially overlaid what they were presenting to Council. He noted this gave

the developer assurance to go ahead and continue with their planning and engineering to get to that stage.

Mundle stated they were in no way rubber stamping this and this was just simply feedback and direction to the Developer. Berg stated they would still need to move into the planned unit development phase of things and define other parameters above and beyond what was coming in the preliminary plat. He indicated that was part of the process and the City could refine the aesthetics, the look, the volume, etc. to some degree once they got to that stage.

Lewis stated this version appeared to be denser than the previous version. Mr. Barker explained the change made to the plan noting they had eliminated 100 homes from that plan. He noted the density was 100 percent established on what the City was requiring in the Code and they were not seeking any flexibility. He believed this was taking the advice that was given to them by Council to get a density that was a little bit more friendly to the City.

Smith asked if the ponds would all have water in them. Mr. Barker responded there was a ditch that ran through there that appeared to have water in it on a regular basis, but without knowing the engineering and how deep the ponds would be, he did not have an answer to that at this time. However, he noted there was water in several of the ponds on the golf course right now, so they anticipated there would continue to be water in the ponds.

Smith expressed concern about stagnant water in the ponds and asked if they would be putting in fountains to keep the water moving. Mr. Barker responded he did not have an answer to that question at this time and they would need to do some research on it. He indicated there would be an HOA and the ponds would be a common area.

Smith requested the developer research putting fountains in so the water was not stagnant and smelled. Mr. Barker stated they would check into this.

Lewis asked what was the function of the HOA. Mr. Barker responded right now they were proposing improved landscaping and they also had a half-acre recreational green space that was going to be retained as a part of the HOA for some recreational activities, as well as a larger entrance at both Viking and Sandhill Parkway. He noted the landscaping would need to be irrigated. He indicated they were also going to have some type of screening which would need to be taken care of by the HOA. He indicated they HOA might also want to have one garbage hauler to save wear and tear on the City's roads.

Lewis noted the City had a lot of ponds, but the City was not in the pond maintenance business and that was one door they did not want to open. Mr. Barker stated he would be happy to come back to the Council for this discussion after he had an answer on the ponds.

Miller noted on the east side there was going to be some kind of a buffer between the development and the private residential land that runs across there. He asked if they were going to be right upon the property line. Mr. Barker responded that as it was designed right now, there would be a little bit of space included in there, plus some additional wetlands. But, when they were not presented with those buffering options, then they would follow the setback standards that were in place.

**DeRoche stated I'll make a motion to adopt Resolution 2023-63, A Resolution Approving the Concept Plan of "Viking Meadows." 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.**

#### 4.0 G 2024 Preliminary Budget Discussion

Davis presented staff's report indicating 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. On August 14, 2023 the City Council discussed allocating the one-time Public Safety Aid of \$515,964 to the 2024 Law Enforcement Contract. Again, these funds can only to be used to fund public safety related expenditures with the City's contract with Anoka County for Law Enforcement Services being an eligible use. The final amount will be certified by the MN Department of Revenue by September 1, 2023 with the actual funding disbursement occurring December 26, 2023.

Davis noted 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 percent of next year's budgeted expenditures. In practice, the City has historically maintained and targeted 50 percent of next years budgeted expenditures to ensure the general fund has adequate cash flow in order to meet operational needs.

Davis stated 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 use \$348,500 in fund balance to offset the increase in 2024 expenditures in order to keep the levy flat for 2024 and still be over the targeted 50 percent.

Davis outlined the levy options:

Use of fund balance \$348,500 = 0% Levy increase  
 Use of fund balance \$250,000 = 1.6% Levy increase  
 Use of fund balance \$200,000 = 2.4% Levy increase  
 Use of fund balance \$100,000 = 3.9% Levy increase  
 Use of fund balance \$0 = 5.5% Levy increase

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

September 11 Council Meeting: Consideration of the Preliminary 2024 Budget and Levy

December 11 Council Meeting: Consideration of the Final 2024 Budget and Levy

Lewis noted in the interest of public disclosure, he met with Davis and Jeziorski last week to go over this topic and they came up with the 1.5 to 2 percent levy change. He believed the residents would understand at this time of inflation and cost increases, this needed to be done. He indicated at the same time, they wanted to be prudent and not use up the surplus more than they needed to.

Mundle stated he would be comfortable with the 2 percent ley increase. Lewis believed it would probably be about 1.6 percent increase which he believed was pretty tolerable at a time of 3 to 7 percent inflation.

Mundle stated he would be agreeable to anything under 2 percent. He noted Minneapolis/St. Paul had an increase of 15 percent.

Jeziorski stated they were trying to get some kind of consensus as to what the Council wanted the preliminary budget to look like. He believed they had whittled it down to just this one issue now what they want to use for that fund balance in order to decrease the levy increase for 2024 without jeopardizing or leaving the City vulnerable in future years. He indicated he thought the prudent thing to do was use up the fund balance incrementally and starting with that 1.6 to 2 percent increase was a good start for the preliminary budget. He stated if things changed, they could always decrease it in the final budget.

Mundle asked if the Council set this at 2 percent tonight, could it be reduced down to 1.6 percent. Jeziorski responded if the consensus was to do 2 percent, then he would create the budget at 2 percent and if things changed between now and December 11, they could always reduce it down.

Jeziorski stated the one thing was if they gave this to the County in the preliminary stages, that was what was going to show up on everybody's preliminary tax statement that they received in November.

It was Council's consensus to have the budget book with a 2 percent total levy increase to be presented at the September 11 meeting.

**Informational; no action required.**

## **5.0 Public Forum**

Julie DeWitt stated she was going to have Christine Dahlman speak for her.

Christine Dahlman suggested the City have a public forum at the beginning of the meeting in the future so people did not have to wait 2 hours for the public forum to make comments.

Ms. Dahlman stated what Ms. DeWitt had not mentioned at the previous Council meeting Open Forum was that she had been through cancer treatments and the previous Council in November 2021 voted unanimously to leave them alone and not charge them and readdress the issue. However, the concern was that they were never contacted by the City and next thing they knew they were in Court.

Ms. Dahlman stated the building inspector had said Ms. DeWitt's home was a threat to public safety. A substandard hazard for supposedly curled shingles which they have asked for documentation. She noted Ms. DeWitt could not get any documentation because she has an attorney. She indicated Ms. DeWitt has a Public Defender and the Public Defender had put a motion into the Courts in May asking the Courts to specifically look at the equity in her home to see if she even qualified anymore. She believed that was unfair because Ms. DeWitt had no income right now.

Ms. Dahlman stated she had some real concerns about the City's law firm. She noted the City Attorney's law firm had stated they were unable to go to a trial because a witness was not available due to emergency surgery, but she saw pictures of that witness in the Philippines.

Lewis noted Ms. Dahlman had gone over five minutes and asked the City Attorney what they should do in this situation.

Larson stated he wanted to make it very clear that there was a citation and an action before the Court. He noted each one of the allegations that Ms. Dahlman indicated as well as any documentation she had was to be looked at by a Judge who was non-biased – who looked at the evidence and the proper procedures in a non-biased manner. He indicated what Ms. Dahlman was bringing before the Council was public policy and whether the Code was appropriately written and whether it should be rewritten. He indicated if Ms. DeWitt was in compliance with the Code then she would win at Court, and if she was not in compliance, she would lose.

Ms. Dahlman stated the City Attorney misled the Council. Larson stated he had not said anything misleading and he had talked about the law.

Mr. Dahlman asked why could Mr. Davis work with them to help to clean up their property and willing to work with them to keep them out of Court, but the Council did not. She noted the City Attorney had an obligation by law to enforce the law and he also had an obligation to not charge people when they know there were bogus claims.

Lewis noted the Council was not the body that adjudicates this.

Larson noted Ms. DeWitt could have had the Code Enforcement Officer come back out.

Davis stated he had spoken with Ms. DeWitt and told her that while they had made progress in cleaning up their property, they needed to get together to have a meeting scheduled and find out what they were going to do keep the corrections going. He noted that meeting was held on June 26. He indicated at that meeting, Ms. DeWitt was not willing to discuss anything to continue what needed to be done to come into compliance. He stated at the end of the meeting, Ms. DeWitt was informed that this needed to go to the Court. Ms. DeWitt responded she had given Davis the reasoning.

Ms. Dahlman stated this selective enforcement and selective prosecution had to stop. She noted the City Attorney's law firm was lying when they said Mr. Schmidt was having emergency surgery, but there were pictures of him in the Philippines. Larson stated Ms. DeWitt could bring that up with the Judge.

Ms. DeWitt stated both her and her husband were being charged separately, but she was the owner of the home.

Ms. Dahlman asked if the City was going to pay for their lawyer. Lewis pointed out they had a Public Defender. Ms. Dahlman stated this was selective enforcement. Lewis responded the City did not do selective enforcement and it was equal justice under the law. He stated it was up to the Judge to sort this out.

Larson stated the Court would take into account the proper procedures and the truthfulness of witnesses as well as the facts of the case.

Ms. DeWitt noted she was still sick and had to go back to therapy and now her husband was ill also. Lewis stated he had faith in the Judge to see the reality. Ms. DeWitt stated she had no faith in the justice system. Lewis wished her well in the process. He indicated the Council would be following her case closely and he was interested in what happened.

Ms. DeWitt stated it was disturbing the City Attorney and the Public Defender were in "cahoots."

Denise Lachinski stated the next Parks Commission meeting was going to be down at Coon Lake at 6:00 p.m. where they will be discussing park improvements and the skateboard park.

Ms. Lachinski stated she was sorry that the comments she had made at a previous Open Forum offended and hurt people. She hoped that despite the way it was handled that conversations were being made to increase volunteerism in the City because she felt they needed to get more people involved. She apologized for the disruption of the City business and thanked them their time. Lewis thanked her and indicated, "all is forgotten, all is forgiven."

## 6.0 Consent Agenda

~~Item A: Approve Bills~~

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

Item C: Approve Meeting Minutes, August 7, 2023 Special Meeting Minutes

~~Item D: Approve Meeting Minutes, August 7, 2023 Work Meeting Minutes~~

~~Item E: Approve Meeting Minutes, August 14, 2023 City Council Minutes~~

Item F: Approval of Tobacco License Name Change: River Country Co-op

Item G: City Administrator Employment Notification

DeRoche requested to pull Item D. Lewis requested to pull Item A. Smith requested to pull Item E.

**Mundle stated I'll make a motion to approve Consent Agenda Items as amended. 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 A Approve Bills**

Lewis inquired about an underwater utility ops paid to Fisher and Signs for \$2,500. Davis responded that was for some contractual work they for concrete curb and sidewalk repairs at the facility that resulted in a water break last winter at Whispering Aspen. He noted the clean up work had to wait until spring.

**Lewis stated I'll make a motion to approve Item A of the Consent Agenda. 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 D Approve Meeting Minutes, August 7, 2023 Work Meeting Minutes**

DeRoche noted on page 172, line 41, should say Coon Lake. Mundle stated on Page 171, line 9, \$15,000 should be \$515.

**DeRoche stated I'll make a motion to approve Item D of 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 E Approve Meeting Minutes, August 14, 2023 City Council Minutes**

Smith noted on page 179, line 35 and 38, it should say Steve Strandlund.

**Smith stated I'll make a motion to approve Item E 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 Moratorium**

Larson stated the public hearing had been noticed.

Lewis noted today's date was August 28 and not August 24 as indicated. Larson stated he was impressed with this Council on their proofreading skills.

Larson stated the Council approved this moving forward in order to give the public an opportunity to be heard on this proposed moratorium. He indicated the proposed moratorium was to give the City time to decide where it wanted its retail cannabis businesses.

Larson noted if the City did not put the moratorium in place, it was true that there could not be a lawful business until the Office of Cannabis Management actually issued licenses. He noted the August 1 law was not as clear as it should have been. He indicated someone could actually do retail sales lawfully, but they do not have the administrative license to do so.

Larson indicated one of his biggest concerns was there would be a person out there who basically said that the only thing that was stopping them was that they do not have a license, but an application had been submitted. And then they were sitting here and trying to say they were running their business out of their home in a residential area and the City was not allowing those businesses in residential areas. He indicated the City would then have to spend a lot of money and time in trying to address that when all they needed to do was basically pass the preemptive moratorium.

Larson stated as the City Attorney he was not saying to prohibit anything that was lawful and to not impinge on what the residents and citizens of the City could do, but rather he was trying to put the City in the best legal and financial situation as far as being able to manage and oversee cannabis.

Larson indicated the other thing they needed to decide was if they were going to put a limit on this or have it limitless. He noted they were talking about cannabis, which was another intoxicating substance just like alcohol, and as a result law enforcement was going to be dealing with what did it mean as far as essentially the wellbeing of citizens.

Larson stated this was an opportunity for the City to essentially regulate and oversee the retail sale of cannabis in a way that worked for everybody. He indicated the reason he was bringing this and strongly recommending that Council seriously consider this moratorium. He stated he was trying to give the City a preventative measure.

Lewis opened the public hearing at 9:36 p.m.

An audience member believed this was a good idea.

Lewis closed the public hearing at 9:37 p.m.

**Mundle stated I'll make a motion to adopt Ordinance 2023-17 and Interim Ordinance prohibiting the operation of cannabis and hemp businesses in the City under Minnesota Statute 342.13(e) and 462.355 with corrections as stated. Lewis stated I'll second.** Lewis asked any discussion?

DeRoche stated he did not understand having a moratorium for a year when the licenses did not come out until 2025. He noted that at that point the moratorium would be gone and the City would have spent money creating the moratorium. He indicated he did not see why staff could not do this work without a moratorium and come up with any Ordinances themselves. He saw this as putting the cart before the horse.

Mundle asked whether Council approved this or not would staff be drafting the Ordinance for a moratorium. He also asked how much did it cost the City to enact this. Larson explained people were creative and could come up with some creative arguments on this. He indicated he was trying to inoculate the City so they do not have to deal with that.

Lewis stated he believed the City had spent approximately \$2,800 on this so far. Larson noted what the City had spent money on was also an understanding of what the law, which was 150 pages. He noted his firm had spent hundreds of hours on this and in June he gave a report to the Council laying out what the law was and at that time he told the Council he was going to recommend a moratorium. He stated this was very complicated and he was proud of the value that had been provided to the City with that amount. He stated it would not cost the City any additional legal fees to enact the moratorium. He indicated what they were seeing now was either they want to risk the City having issues, or they could improve it and there would not be any issues.

DeRoche stated the scare tactics didn't work on him. Mundle stated it was not scare tactics.

Smith asked Larson how many other cities had his firm done this for. Larson responded that every single city his firm represented had done the moratorium. He indicated this was very common.

Smith asked if his firm charged the other cities the same \$2,800. Larson responded those cities probably required the same amount of work, so yes.

Smith stated if he had done the same amount of work for other cities and the firm had already done this several times, then East Bethel should get a discount. Larson responded the City had received a discount.

Smith indicated he did not know how Larson figured that. Larson responded that what he had done was based upon the hour. He noted he had taken the overall body of work that he had not billed for and then he put this together. He indicated it took a lot of knowledge to tailor each one of these. He noted they were starting a new frontier and there was no "plug and play out there." He indicated they had to start from scratch and they were looking at a 150-page piece of legislation that they were studying and then taking and putting together into staff reports. He noted they had to figure out the impact for each of their cities and not every city had edible licensing, etc. He stated he had to look at all of the different licensing protocols to make sure he was providing the correct advice to the Council.

Smith noted they were not sure if it was right or not because Larson had said it could go the other way. Larson stated his job was to provide the best service he could and to provide the City with all of the tools. He indicated he was not going to take any personal umbrage if the Council decided to vote against it. He stated he wanted to make sure that as best he could, he was giving the Council the most informed and complete advice possible as their chief legal advisor. He stated he was exceptionally proud of the product, the service, and the advice he had given the Council. He stated he would respect whatever the Council decided.

DeRoche stated he was confused about when it was legal to sell. Larson explained what he meant by his earlier comments. He noted he did not want to have a legal gotcha and this was just good risk management in his opinion.

DeRoche called the question.

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

#### **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 Set Town Hall Meeting Date**

Davis stated the Fall Town Hall Meeting is held in November and is proposed for a date that doesn't conflict with any other municipal or school district meetings. Staff has reviewed and found there to be no conflicts with the evening meeting schedules for ISD #15, ISD #831, or any East Bethel Commissions or Committees in November 2023 for the dates listed below.

Davis indicated available dates are November 1, 6, 7, 9, 15, 22, 29, and 30. Davis stated this meeting presents an opportunity for residents to express concerns and present questions to City Council, staff, and other Officials in both a formal and informal setting. Davis noted the date for this meeting in advance so that we can place the notice on our website calendar, social media accounts, newsletter, and on the cable channel. Davis stated staff is requesting that City Council set a date for the 2023 Fall Town Hall Meeting.

Council chose November 15, 2023 for the Town Hall Meeting date.

**8.0 G.2 September Work Meeting Cancellation**

Davis stated unless there are items that City Council may wish to include on the September Work Meeting Agenda, Staff recommends the cancellation of this meeting.

**Miller stated I'll make a motion to approve cancelling the September Council Work 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.**

**9.0 – Other Items****9.0 A Staff Report**

Davis stated he had no staff report.

**9.0 B Council Reports**

DeRoche stated he agreed with the Fire Chief about people liking to burn garbage. He indicated he liked the smell of wood fires, but not garbage fires.

**9.0 C Other**

None.

**10.0 Adjourn**

**DeRoche stated I'll make a motion to adjourn. Mundle 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 9:56 PM.

Submitted by:

Kathy Altman

*TimeSaver Off Site Secretarial, Inc.*