

EAST BETHEL CITY COUNCIL MEETING

October 23, 2023

The East Bethel City Council met on October 23, 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

1.0 Call to Order

The October 23, 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. Smith stated I'll second. Lewis asked any discussion?

Lewis stated he had two amendments to the agenda: The Potentially Dangerous Dog hearing is cancelled, and he noted he did not have an update on the City Administrator position update and removed it from the agenda.

Mundle stated he had questions on the City Administrator position. Lewis stated he did not have anything further to say about it and he had removed it from the agenda.

Mundle stated he had questions on the City Administrator position and a discussion needed to be had by the Council.

To the motion, all in favor say aye. **DeRoche, Miller, Smith, and Lewis.** Lewis asked any opposed?

Mundle That motion passes. **Motion passes 4-1.**

4.0 Presentations and Public Hearings

4.0 A Anoka County Blaine Airport Advisory Commission Presentation

Suzanne Erkel presented the 2023 Anoka County Blaine Airport Advisory Commission (ACBAAC) report which included aircraft operations, aircraft types, aircraft operations by hour from July 2021 through June 2023, aircraft noise complaints and household summary from 2018 through July, 2023, aircraft noise complaints and operations by hour 2018 to July 2023, as well as who is on the ACBAAC and the Commission's goal and purpose along with their 2022-2023 Work Plan.

Lewis thanked Ms. Erkel and requested a presentation over the Winter by somebody from the airport also.

Informational; no action required.

4.0 B Public Hearing: 3.2 Off-Sale Malt Liquor License, Kwik Trip #1171

Davis stated that staff is recommending that Council conduct a public hearing regarding an application and request for a 3.2% Off Sale Liquor License for Kwik Trip, Inc. Davis indicated 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 noted 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 Council conduct the public hearing to receive comments on the 3.2% Off Sale Liquor License for Kwik Trip, Inc. dba: Kwik Trip #1171. 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 Kwik Trip, Inc. dba: Kwik Trip #1171 located at 18755 Sandhill Parkway NE in East Bethel.

Lewis opened the public hearing at 7:11 p.m.

There were no comments.

Lewis closed the public hearing at 7:11 p.m.

DeRoche stated I'll make a motion to approve the 3.2% Off Sale Liquor license for Kwik Trip, Inc. dba: Kwik Trip #1171 located at 18755 Sandhill Parkway NE in 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 — Potentially Dangerous Dog Hearing~~

This item was removed from the agenda.

4.0 D Capstone Traffic Study Presentation

Davis stated that Capstone Homes, Inc. has requested that the City have a traffic study prepared to assess the impact their proposed development's access points would have on Viking Blvd., Sandhill Parkway and 187th Lane and Hwy. 65. This study would be commissioned by the City and prepared by an independent consultant. The City Engineer was directed to solicit proposals for the scope of work and cost for the study. Capstone would be required to establish an escrow account in an amount to pay for any expenses associated with this work.

Davis stated the letter of request, Attachment 4 to Council's packet, is Capstone's notification of their intent to have the traffic study completed through the City and independent of their input. Capstone's work items specified in their letter may or may not be included in the deliverables of the study.

Davis indicated the base proposal would include the intersections of Hwy. 65 and Viking Blvd., Viking Blvd. and Sandhill Parkway, Viking Blvd. and Williams CT Way and Viking Blvd. and Greenbrook Drive (CR 68).

Mayor Lewis stated the study should also include 187th Lane from its intersection with Hwy. 65 to the roundabout on Sandhill Parkway and in addition to this location, the intersections of Greenbrook Drive and Crosstown, Crosstown and Hwy. 65, Greenbrook Drive and Briarwood Lane. Mayor Lewis also requested that the traffic impact from the Elevage project and the future Osborne development be factored into the study findings.

Davis noted Capstone has no past history with SEH but has used S2 Solutions for consulting work. If S2 Solutions is selected to prepare the study, they will be contracting with the City and would have no connections with Capstone for this work.

Davis stated the SEH proposal regards the impacts to Crosstown Blvd. as negligible with the complete buildout of the area bounded by Viking Blvd on the north, Greenbrook Drive on the east, Briarwood

Lane on the east and Hwy. 65 on the west, and does not recommend the inclusion of Crosstown Blvd. in their analysis.

Davis noted an escrow account in the amount of the consultant fee and any charges on the part of the City Engineer will be established by the City and funded by Capstone to pay for the cost of the study. No City funds will be used for this activity. The cost for the studies are as follows:

	Phase 1	Phase 2
S2 Solutions	\$13,400	\$12,300
SHE	\$24,000	\$15,500

Davis stated the City Engineer has worked with both firms and recommends that each is capable of performing the work. Davis requested the City Council select either S2 Solutions or SEH and authorize the consultant to proceed with the project.

Lewis stated this was not quite correct. He did not believe they were talking about phase one and phase two. He indicated that this was his experience on the Elevage project and that traffic study. He believed the traffic study was not adequate and they did not look at the big picture. He pointed out on the map what he believed did not work and where people might cut through on various roads in the City. He indicated to him, they were an integral part of doing a proper traffic study and they were not an add on, unreasonable, or superfluous.

Mundle asked why they had two locations not in East Bethel. Lewis responded because they were their primary blockage points for traffic and that was why they were not the Cities. He stated it didn't matter if they were in East Bethel or not but it mattered if they were major points that were going to "plug up" and prevent traffic from flowing. He indicated it did not matter if they were physically in the City and what mattered was where there were places the traffic was going to be "blocked up."

Mundle stated it did matter because it was in the City. Lewis stated in his opinion it was a spurious argument. He indicated he was not asking for an evaluation of the impact in Duluth; these were traffic patterns that people were going to follow and they would figure them out quickly. He stated he was not arguing about it, but rather expressing his opinion.

Lewis stated he believed there was going to be major blockage points, especially when Elevage was there.

Mundle noted it was all of the City's jurisdiction. Lewis stated Mundle had expressed his opinion and they have a disagreement.

DeRoche stated he believed there would be "pinch points" and the traffic had to go somewhere. He indicated Hwy. 65 and CR 22 was going to be a bottleneck and during rush hour Hwy. 65 was already a mess. He noted they were also projecting they will be working on Hwy. 65 about when Capstone would be done.

Lewis stated in order to have a proper analysis, they had to include Elevage as that would impact the same places.

DeRoche inquired if a previous traffic study had been done. Davis responded that was correct and it was done by Kimberly Horn. He noted the results of that was done prior with the approval of Sandhill Parkway being a completed project in one phase. It was done with the assumption that the access to Elevage would be stopping at their northern boundary which was the golf course.

Lewis stated those were obsolete before they were printed and when he got on the Council, they had virtually no relevance and that was when he voted against it. He stated he was not against

development, but he wanted the residents to know what the consequences of development were. He indicated the easiest thing in business was to externalize costs on to other people. He believed this was going to be very tough on Hwy. 65. He noted he wasn't a civil engineer though and this was just his opinion.

DeRoche asked what was phase one and two as he only remembered one phase. Lewis stated that was what he meant and phase two was just made up.

Davis stated that was the way they identified these in the proposal, but it was done simultaneously. It was just broken down.

Lewis stated distinction without a difference was another way to say it because it all had to be done at the same time, and it all had to be inclusive of what they know was going to happen at Elevage.

Davis stated both proposals did say they did take into account the Elevage traffic generation projection would be included in their final analysis.

Lewis stated he was very clear at the outset because of his experience with Elevage and he didn't like the way the City Council handled that, so he would be watching this one very closely and he meant what he said. He stated if it was not complete or there was something "goofy" about it, he was going to call it out. He indicated his obligation was to the residents of the City. He noted he was not going to go along with a "bologna" study. He stated he did not know what basis they have for choosing one or the other. He indicated they were not civil engineers and they had never worked with these people. He asked Mr. Barker if he trusted their abilities to do a good study.

Matt Barker, Capstone, responded he believed they would.

Mr. Barker stated they have had to do the exact same process with several other communities. He indicated they had been in the industry working with a lot of city engineers and providing third-party analysis of traffic that could be trusted by the City. He noted they were separating themselves from them in that respect. He indicated they had just completed a very significant study in Delano where they had some of the same concerns as East Bethel and they did tremendous work.

Mr. Barker stated there was a lot of back and forth to make sure, as this goes to a public hearing, that they are going to have a chance to hear and understand what is defined in the traffic study. He indicated they worked closely with the city's engineers and the State to make sure that the data and the answers were sufficient.

Lewis stated Mr. Barker's words were good enough for him. Lewis stated the one thing he would not go along with was East Bethel picking up any of the costs of the study. Davis responded that no City funds would be used in this.

DeRoche stated I'll make a motion to approve S2 Solutions to perform the Capstone traffic study. 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

Lieutenant Derek Peters presented the September 2023, Sheriff's Report, stating the Sheriff's Department responded to 376 calls for service, which included one burglary, 5 thefts, 4 assaults, 3 damage to property, 8 PI accidents, 8 PD accidents, 56 medicals, 31 animal complaints, 11 alarms, 5 gross misdemeanor arrests, 6 misdemeanor arrests, 4 DUI arrests, 2 domestic arrests, 5 warrant arrest, 92 traffic stops, and 17 traffic arrests.

Informational; no action required.**4.0 D Fire Department Monthly Report**

Fire Chief Sanow presented the September 2023 report and noted that they responded to 81 calls, of which 58 were medical, 8 crashes, 3 alarms, 4 burning/smoke, 7 other, and 1 fire.

Davis stated Fire Chief Rodney Sanow will present a proposal for discussion of a fire services agreement with the City of Bethel and the Fire Department's monthly report.

Davis indicated the City of East Bethel has been approached by the City of Bethel to discuss the contracting of fire services to cover their municipality. The City of Bethel is facing serious staffing issues within their current 7-member fire department and is seeking solutions to this problem outside the continuation of operating their own fire service.

Davis noted the base demographic profile for the City of Bethel is:

- Size - 1.04 square miles
- Population - 473
- Number of homes - 186 homes
- Number of Businesses - 12 businesses

Davis stated the City of Bethel Fire Department has:

- 1 - 4,300 SF Fire Department Building
- 1 – 2008 Freightliner Pumper Truck
- 1- F350 Grass Rig
- Approximately 30 primary call responses per year (East Bethel responded to 923 calls in 2022 - 652 medical 271 other)
- A Fire Department budget of \$30,000 (East Bethel 2023 Fire Department Budget- \$987,500)
- A 2023 cost per resident of \$63 (the 2023 East Bethel cost per resident is \$81)

Davis noted the 2023 estimated cost to provide fire service to the City of Bethel based on our cost per resident times the Bethel population would be \$38,330. This cost increases to \$42,724 for 2024 for our draft preliminary 2024 budget increase for our Fire Department. The proposed 2024 fire department is \$1,100,700 and includes \$83,500 for a proposed additional full-time position.

Davis indicated other considerations are:

- Should we contract with the City of Bethel to provide fire services, we would use our Fire Station 2 at 2349 221st Ave. as the station of service. We would not need the Bethel station and we would not want any of their equipment as we have no place to garage any additional vehicles.
- The only items we could use from the Bethel Fire Department would be their tablets, radios, and pagers.
- Distance from Fire Station 2 to University Ave. and Main Street in Bethel is 4.95 miles

Davis stated the City Council is requested to discuss the feasibility of and interest for a fire services contractual arrangement with the City of Bethel and provide staff direction as to any further action on this matter.

Miller stated he had spoken with the St. Francis and Bethel fire departments and they were trying to get a joint JPA going. He noted that was one of the reasons the remaining staff elected to use or get paid out of their fireman funds. He indicated they've told him that the grant they applied for in both cities they received where their station would become number two and increase the coverage for

Bethel and also give a little bit extra coverage for that side of the City for St. Francis, but up to 5 firefighters for St. Francis were being transferred over to Bethel to cover their staffing issues.

Miller stated he did not know why East Bethel was getting involved at this point when they had grants that have been approved by the State to do this. He asked wouldn't it be in the City of both Bethel's and St. Francis' best interest to let that play out because the residents would have better coverage. He noted they were adding on 4.95 miles and they are saying they are short staffed all of the time. He stated there was nothing in the proposal to East Bethel that had anything to do with what was actually going on in the background over there.

Davis stated this had just come up last week and Sanow could update them on St. Francis. He noted they were just updating the Council as to the meeting they had with Bethel.

Miller stated this was a proposal for consideration and with what they have, they are not going to use their fire rigs or their fire department station. He asked what was going to happen to the remaining firemen that were there. He also asked if East Bethel was going to take them. He noted Bethel actually had someone East Bethel had let go. He stated he did not see how the residents benefitted from this. He indicated the residents should be first in mind and this did not seem to play out that way.

Sanow stated they had not approached Bethel – Bethel approached them approximately two weeks ago. He stated he did not know that St. Francis had applied for the grant and he was told today they had received two grants from the State Fire Marshal. He stated he gave them a number and he believed the City's coverage would be about the same from East Bethel's station from what they are getting now. He noted they actually go through Bethel to cover parts of the City. He stated he was looking for direction, and if the Council said they don't want to do anything with this, that was fine.

Miller asked how Sanow felt about St. Francis now that they had received the grants. Sanow responded let them go with the St. Francis things and sign a 2-year contract to see if it worked and if it didn't work, then come back to East Bethel. He stated for East Bethel to get involved now, they would not be able to even think about taking over coverage until March or April, 2024.

DeRoche stated they would still get mutual aid. Sanow responded that was correct.

Lewis stated he did not have enough information to make a decision on this at this time.

DeRoche noted East Bethel was already short and looking to hire people for the Fire Department, and the firefighters were already overworked, so why would East Bethel want to take on anymore. Davis responded this was just a fact-finding discussion.

The Mayor of Bethel stated he knew about the situation and they were trying to find out more information, but the person who set up the meeting between Lewis and Davis did not have permission to do that and it was done on her own initiative. He noted they did not officially call East Bethel. He indicated they also have been working on this for eight months and not two years as stated.

The Mayor of Bethel stated cost was probably their biggest hurdle. He indicated they were a small town with a limited number of residents and businesses, so they do not have the tax base. He indicated they have 7 firefighters and 4 of those were going to get paid out of their relief fund and leave, so there would only be 3 people left. He indicated one of the people who would be left had previously worked in East Bethel, another one lives too far away, and the last one is still on the fence. He stated when this all is done, they will have 3 firefighters.

Lewis asked if they have considered merging into St. Francis's fire department. The Mayor of Bethel responded that discussion has been ongoing and he wanted to have a contract with St. Francis to see

how it works and if it was feasible for both cities. He indicated everything right now was preliminary and they are in the beginning of their discussions. He stated they had received the numbers from St. Francis and their numbers were higher than what their budget was, so they would have to levy for an enormous tax increase for their small city. He indicated there were a lot of retirees in their city.

Miller asked what the grant covered. Mayor of Bethel responded he believed it was for equipment, but he did not have all of the information on the grants yet. Miller stated he would want more information on the grants.

Smith stated he wanted them to try the two-year contract to see if it worked and if it didn't work, then come back to East Bethel.

DeRoche asked the Bethel Mayor what their residents thought. Mayor Bethel responded the public meeting has not been held yet, but it would be held soon.

Lewis requested the Mayor of Bethel come back to the Council after the public meeting.

Davis stated staff will talk to St. Francis to inform them of the discussion with Bethel.

Informational; no action required.

5.0 Public Forum

Suzanne Erkel updated the Council on the citywide Christmas tree lighting at the Senior Building annex on December 2 at sunset. She asked for City resources to get the tree standing up and asked if the City could provide some lights and put them up also, so the rest of the donations could be used for ornaments. She indicated her vision was to have hot chocolate, coffee, and cookie platters in the Senior Center for people.

Ms. Erkel stated with respect to the traffic study, she appreciated the Council's due diligence in this. She noted this study was important for the City as traffic was "crazy".

Ms. Erkel noted Thursday is game day at the Senior Center from 1-4 p.m.

Karsten Anderson, St. Francis School Superintendent and resident of East Bethel, thanked the Council for their due diligence and including the School District in the discussions with Nexus.

Mr. Anderson updated and presented the Council and residents on the upcoming operating levy referendum on November 7. Davis pointed out that the only polling place for the referendum was the East Bethel Senior Center.

Stacy Saxe, expressed concern about the process for hiring a City Administrator. She stated the residents deserved a transparent process. She noted that City Councils generally did not have a lot of experience in the recruitment and hiring of a City Administrator as City Administrators did not need to be replaced very often. She indicated usually City staff would run the process or hire an experienced consulting firm to conduct a search. She asked the Council to have a transparent search for the next City Administrator by using a consultant to conduct the search. She noted both herself and other residents would be disappointed in the Council if the search was not transparent and if the Council did not have the residents in their best interest.

6.0 Consent Agenda

~~Item A: Approve Bills~~

~~Item B: Approve Meeting Minutes October 9, 2023 City Council Meeting~~

Item C: Approve Hire of Administrative Assistant

~~Item D: Tobacco License Application, Kwik Trip #1171~~

Lewis requested to pull Items A, B, and D. Smith requested to pull Item A.

DeRoche stated I'll make a motion to approve Consent Agenda Item C. 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

Smith inquired about the Newman Traffic Signs and the Warning Lights. Davis responded Warning Lights was the name of the company and it was for the JPA bid for street markings. With respect to Newman Traffic Signs, those were for the street traffic signs bought for replacement scheduled to 221st Avenue. He noted the City received better pricing by buying in bulk.

Lewis noted his questions had been answered.

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 B Approve Meeting Minutes October 9, 2023 City Council Meeting

Lewis noted his comment at the end of the Fire Relief Association presentation where he gave appreciation to Troy on behalf of the people of East Bethel were not in the minutes. He requested his comments exactly as he said it be put in the minutes.

Lewis stated the video of the October 9 meeting was also not on the media center.

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

6.0 D Tobacco License Application, Kwik Trip #1171

Lewis asked how much did a tobacco license cost. Davis responded \$300.00.

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

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

7.0 A Planning Commission

7.0 A.1 Septic Variance: 243 Elm Rd

Lewis stated he looked on the Planning Commission agendas for the past year and he could not find 243 Elm on any of the Planning Commission agendas. He noted this was on the Coon Lake Beach neighborhood. Berg responded Lewis was correct that this was never on a Planning Commission agenda and it came to staff. He noted septic variance hearings only needed one hearing, so it did not have to go to the Planning Commission prior to coming to the City Council and it could be done at either/or.

Berg stated there was a pending sale on this property along with an adjacent parcel. The request for the variance was prompted by the City septic compliance inspection required by Code for the transfer of property. The closing for this sale is contingent upon the approval of this variance to satisfy City Code Section 74-48. The residence is located on a .13-acre parcel and the applicant intends on combining the adjacent parcel of .04 acres to create a single parcel of .17 acres or 80' x 100'.

Berg indicated the contract property owner is seeking approval of a variance for a Type II septic system at 243 Elm Rd NE. Type II Septic Systems are holding tanks that require a variance per MN Rules Chapter 7080 and the MPCA. The existing, non-compliant system, which is also a tank, located on a neighboring property, has failed. It will be disconnected, the affluent will be pumped and the tank will be crushed.

Berg noted due to the limited space on the property, even after the lot combination, there would not be sufficient space for the construction of a traditional Type I system which meet setback requirements. The narrow lots are what prompted the placement of the existing tank on the neighboring property originally. A Type I system, with a drain field, requires a 20-foot setback from the house foundation and 10-foot setback from any property line. Tanks are required to be placed 10 feet from foundation and 10 feet from property lines. After the combination of the two parcels there will be approximately 30 feet between the foundation and the north property line. Attachment 3 shows an aerial of the property.

Berg stated variances for Type II systems cannot be approved if there is space on the property to install a compliant septic system. If the variance is not granted, the residential structure will be considered uninhabitable due to lack of a working septic system.

Berg indicated consideration of a variance requires the following three-factor test:

A test of reasonableness - giving consideration to use of the property restricted by the rules of the ordinance in a practical manner:

Septic systems are required for a home to be considered habitable. The Minnesota Septic Code prohibits holding tanks unless approved through the variance process by the municipality in which they are located. The approval of the variance would allow this property to continue as a residential use.

The test of uniqueness - the issue for the variance is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular property.

In this case, the property has limited space for a replacement drain field due to the lot sizes created by this 1920's era plat, current setback requirements for wells and structures and DNR lakeshore regulations. These factors support the uniqueness test for the variance.

The test of alteration of the essential character of the neighborhood - this factor is used to consider whether the resulting structure or improvement will be out of scale, out of place, or otherwise inconsistent with the surrounding area. When applying this test to a setback reduction, the visual impact or use of the building or improvement relative to the surrounding dwellings is the emphasis of assessment.

In this case, this neighborhood has had a significant number of septic variances issued due to the age of this neighborhood and the small lot sizes. With a number of older systems needing to be replaced in this area, this variance request is quite common and granting this variance will not change the essential character of the Coon Lake Beach neighborhood.

Berg requested the City Council hold a public hearing regarding a variance for a Type II Septic System at 243 Elm Road NE. and approve Resolution 2023-71, granting a Variance to Allow for the Installation of a Type II Septic System at 243 Elm Road NE.

Lewis opened the public hearing at 8:25 p.m.

There were no comments.

Lewis closed the public hearing at 8:25 p.m.

Lewis noted the closing for the sale was contingent upon approval of the variance to satisfy City Code Section 74-48. He asked how this related. He noted as somebody that lives on Coon Lake Beach for a long time (east of it), he was well aware that what was being said was correct and they actually had to have a holding tank to conform, but it was definitely better to have a working holding tank than one that has failed and was leaking into the groundwater. He appreciated staff bringing this forward. Berg noted it was also best to have it on their own property and not onto somebody else's property. Lewis noted they generally did not like that.

DeRoche stated I'll make a motion to approve Resolution 2023-71, Granting a Variance to Allow for the Installation of a Type II Septic System at 243 Elm Rd NE. Smith stated I'll second. Lewis asked any discussion?

DeRoche stated Berg had indicated this could go to either to the Planning Commission or the City Council. He asked if the Planning Commission could grant a variance without the City Council doing it. Berg responded no, the Planning Commission can make a recommendation and hold the public hearing. After that the recommendation would come to the Council for approval/denial, or the Council could hold the public hearing and make the approval/denial themselves.

DeRoche stated for the record he knew of several people on Coon Lake have had this issue and did not get variances, with one in the past year and it cost that person \$50,000 on the sale of their property. He indicated he was surprised that it did not come before the Planning Commission.

Lewis asked if this property was in the Shoreline Management Area. Berg responded that was correct.

DeRoche stated anything within 1,000 feet was Shoreland Overlay District.

Lewis stated he had recently driven by this property and it looked like there was a lot of remodeling being done on the place. He indicated there were cabinets sitting on the outside. He asked Berg if staff knew of this remodel. Berg stated this was a change of ownership, so he assumed they were upgrading.

Lewis stated he did not want to get anyone in trouble, but what does someone have to do to get a permit for remodeling (plumbing, electrical, mechanicals, etc.). Berg responded permits were required if things were moved, but generally kitchen remodels to some degree did not require a permit.

Lewis pointed out that he checked with Nick before he put in new kitchen cabinets in his own kitchen just to make sure he was following the law. He noted it appeared someone was investing a lot of time and effort to improve the property. He believed it was good for the environment to have working mechanicals.

DeRoche noted there are some of the holding tanks where he lives and those people were told that sewer and water was going to come through in five years and to put the holding tanks in. Berg stated these owners were told by the septic designer that this was their only option.

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

Motion passes unanimously.

7.0 A.2 Ordinance Amendment: Mobile Food Vendor Units, Ch. 18, Art. V

Lewis asked what was driving this issue. He indicated the report Council received said staff had received a complaint from a resident about enforcing licensing and regulation of food trucks. He asked who this person was and it could be whispered in his ear. Berg responded when he started with the City and was working on code enforcement, they were getting questions all of the time about licensing of food trucks. He stated he received calls all of the time about what it took for a food truck to come into the City.

Lewis asked if this was from people who wanted to bring a food truck into the City. Berg replied that was correct. He noted other surrounding cities, as well as Anoka County, had licensing requirements. He noted the food truck vendors seem quite confused that East Bethel did not have anything. He stated he had also received a written email complaint from a verified resident that the taco truck that was frequently in the You Pull Our Parts was not in compliance.

Lewis asked how would that person know if they were in compliance. Berg responded they had reviewed the City's Ordinance and realized there were some potential holes in the Ordinance that allowed people to get around not having to have a license or registration in the City.

Lewis stated the first thing that went through his mind, being the cynical person he was, was that if he operated a Mexican restaurant right down the street a couple of miles, he probably would not want to see a low overhead. Berg responded he believed this complainant was retired.

Lewis stated that was why he asked the question. He stated he was surprised about this since it appeared they were only changing the requirement that they have to post the license from the County and he was surprised that it is not a condition of the County itself that this had to be posted wherever they set up. Berg responded that local units of government can have their own form of regulation. He noted they could have to authorize the County to do the licensing if that was what they want to see done.

Lewis stated he was surprised they did not make any money off this, again with his cynical history with East Bethel, was that if there was a dime in it, they want it. Berg responded he wanted to make this change so that it took the least staff time involved as possible. Lewis stated Berg had not spent enough time here and was not with the program yet. He noted it was getting late, and he was getting "goofy."

Berg stated as the popularity of food trucks has continued to grow, City staff regularly take calls fielding questions from vendors and the public on mobile food vendors and City licensing requirements. In July 2023, City staff received a complaint from a resident about enforcing licensing and regulation of food trucks currently operating in the City. At that time, City staff researched the existing ordinance and determined that clarification was necessary in order to provide staff a process for registrations and a mechanism to ensure compliance.

Berg noted Appendix A. – Zoning – Sec. 01. – General Provisions of Administration "East Bethel Zoning Ordinance" permits food trucks to operate in Highway Commercial (B3), Central Business (B2), Light Industrial (I) and Mixed-Use Districts (MXU).

Berg indicated the General Zoning Code also provides the following definition: Food truck: A mobile food unit (MFU) is a food and beverage service establishment that is a vehicle mounted unit, either motorized or trailered, and readily movable, without disassembling, for transport to another location. The unit can operate no more than 21 days annually at any one place unless it is operated at the site of and in conjunction with a permanent business licensed under Minnesota Statutes, chapter 157, or chapter 28A. All MFU must operate in compliance with the Minnesota food code.

Berg stated beyond the definition and allowable zoning districts permitting operation there are no defined parameters or permitting requirements for operation within the City limits of East Bethel.

Berg noted at the July 25, 2023 Planning Commission, City staff brought a proposed Mobile Food Vendors Ordinance for review and discussion. An informal recommendation at the conclusion was to revise Article V. - Peddlers and Solicitors to include Mobile Food Vendors in the definition, add a State Licensing requirement, and research an appropriate permit fee.

Berg indicated after further research of nearby cities, contact with Anoka County Environmental Services, as well as consultation with City staff who handle permitting, the ordinance revision was presented at the September 26, 2023 Planning Commission meeting. This proposal simply requires the Mobile Food Unit operator to obtain an Anoka County Food Truck License and provide the City with a copy before operating in East Bethel. By a vote of 5-0, with one member absent, Ordinance 2023-11 was recommended for approval.

Berg requested the City Council hold a public hearing and at the conclusion review the proposed ordinance changes in addition to the Planning Commissions formal recommendation to amend Article V. - Peddlers and Solicitors, Division 2. Licensing and Regulation, Sec. 18-230 to include the existing Zoning Code definition of Mobile Food Vendors and Section 18-236. Registration to include a provision requiring Mobile Food Vendors to furnish a copy of a valid Anoka County Temporary Food Truck/ Trailer License.

Lewis opened the public hearing at 8:36 p.m.

There were no comments.

Lewis closed the public hearing at 8:36 p.m.

DeRoche stated I'll make a motion to amend Article V. – Peddlers and Solicitors, Division 2. Licensing and Regulation, Sec. 18-230 to include the existing Zoning Code definition of Mobile Food Vendors and Section 18-236. Registration to include a provision requiring Mobile Food Vendors to furnish a copy of a valid Anoka County Temporary Food Truck/Trailer License. Smith stated I'll second. Lewis asked any discussion?

DeRoche stated one of the issues he has had was when a complaint triggered an Ordinance change or the creation of an Ordinance. He asked if lemonade stands and garage sales would be next. He asked if they would need to go through a fire inspection beforehand. He asked why would they create an Ordinance when one a complaint received. He noted Ordinances didn't go away and they just get built on and built on. He indicated he had listened to the Planning Commission meetings twice and they had conversation that didn't go anywhere. He noted there were a few good comments, but for the most part it was convoluted and he could not understand what they were trying to do. He stated in his mind, why were they bothering this taco truck guy. He indicated if a food truck was in someone's parking lot and the owner did not want them there, the owner had the right to ask the food truck to leave as they were trespassing.

Lewis asked if DeRoche was saying there's a solution in search of a problem. DeRoche stated there was a lot more high priority and important things that the City should be doing than worrying about a food truck in a parking lot. He stated he knew from the first time this was introduced there would be a lot of time and money put into it. He did not understand why they would put this much time and money into this when they should be doing other stuff.

Miller asked when they had other food trucks calling the City asking for the regulations, where there other places in the City the trucks were gathering. Berg responded Ms. Frost handles all of the

business licensing for the City and she has told him she takes calls on a regulation from food truck vendors asking about the licensing requirements in order to operate in the City. He noted in the Ordinance prior to the change, there was a hole in there. He stated there was nothing. He indicated there was a definition of a food truck, what a food truck was, and said it could operate in the City's business districts. He noted it did not say anything about if they could be in parks, private parking lots, etc. He indicated right now it was unenforceable for the City staff to say that food trucks would not be in the City. He noted a private business could ask a food truck to leave their property, but did the City want to put that on a business owner to start an argument with someone in their parking lot and tell them they would have to call the Sheriff. He noted the City would have a mechanism to ask for the County permit and if they did not have the permit, they could be told to go and get one. They then could get a 21-day permit to operate in the City. Berg noted this would also allow the City to verify the food truck met Health Codes and they've been inspected by a Fire Department. He indicated they were not requiring any fees or anything associated with this; they were just simply asking if they had obtained the Anoka County verification.

Miller asked if there were no regulations and they did not see a whole bunch of them show up, what was the purpose of putting regulations on this. He noted they did not have any rules or regulations to begin with, so why now. Berg responded that the complaint was generated about the taco truck at You Pull Our Parts.

Miller asked if the complaint was made by the owner of the property. Berg responded it was made by a resident of the City. He noted he has had emails and a conversation with the person. He noted right now he had nothing that gave him authority to tell the taco truck they were not operating by City Code.

DeRoche asked why should staff have to. He stated the business could always call the Sheriff and tell them someone was trespassing and to come and get them. He stated he did not believe it was up to the City to be the "food police," unless it was something egregious. He noted You Pull Our Parts could call 911 and report the food truck as trespassing if they did not want them in their parking lot. He stated this was only a complaint.

Lewis pointed out this discussion was just going around in a circle.

Lewis stated I'll make a table this for at least a month. 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.**

7.0 B Economic Development Authority

None.

7.0 C Park Commission

None.

8.0 Department Reports

8.0 A Community Development

None.

8.0 B Engineer Report

None.

8.0 C City Attorney

None.

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 Reserve Capacity Loan Payment Schedule Approval**

Lewis noted the Finance Director was not able to be in attendance at the meeting and because he thought a lot of Jeziorski as a very, very, sharp young man who was very knowledgeable about all of this, he wanted to table this to the next meeting. He indicated he had a few more questions he wanted to ask Jeziorski. He noted he had asked a lot of questions previously about the length of the amortization schedule because it could buy them some financial flexibility, but now he was wondering if that was a good or bad idea. He stated he wanted Jeziorski's opinion on this.

DeRoche requested Jeziorski come to the next Council meeting for any questions Council has and to explain this. He noted in the old days when there was a big project, the City Engineer would come in so everyone understood.

Lewis stated that could be requested and he was just going to talk to Jeziorski, but because it was an arcane subject, he could think of nobody better to present it.

DeRoche stated for the Council's benefit and the resident's benefit. Davis stated this was possible.

Lewis stated I'll make a motion to table this to the next meeting. DeRoche 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.

~~8.0 G.2 City Administrator Position Update~~

This item was removed from the agenda.

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

Davis stated there was an HRA meeting following this meeting.

9.0 B Council Reports

Mundle updated the Council on the recent EDA meeting noting the EDA had a business retention expansion program discussion and now were getting to the stage of trying to identify some leadership members to start taking the reins and getting a roadmap in place.

Mundle requested Davis check the video from tonight's meeting concerning the vote on the meeting agenda. He recalled he made the motion to approve the agenda, but did not believe there was a second, but the motion was voted on. Lewis asked if he wanted to redo it right now.

Larson noted once the Council had already gone through the agenda, it became a moot issue as far as a first and a second voting on the agenda because they have already worked through it. He indicated they have actually waived it just by action. He apologized for being late to the meeting and it was due to a traffic accident on 694.

Mundle stated he did have questions with respect to the City Administrator position that they did not have to answer right now. He requested the process be a normal application process where Lewis's

candidate would submit their application and resume and it would be vetted by staff. If they qualify for an interview, then they would be interviewed and staff would follow the interview panel's recommendation.

Lewis thanked Mundle for his request and indicated it would be taken under advisement.

Mundle stated he was interested in a timeline of when things were going to happen. Lewis responded, "cool" and thanked Mundle.

Smith stated he had an issue with the "newspaper guy" being sent the Council packets. He noted he had brought this concern up before. Davis responded the reporter was receiving the packet because he requested the packet and not sending him the packet was a violation of the Public Data Request.

Smith stated he wanted input from the other Councilmembers. He asked why should staff do the reporter's work and he could go to the City's website like everybody else to look at everything. He stated he did not agree with sending the reporter the Council's packet.

Mundle stated he had no issues with it. He indicated reporters should be informed of what's going on.

Smith asked what fell underneath the data request. He also asked if it was for things prior to coming out, or for things that had already come out. Larson responded he had never looked at this issue with respect to a data request with respect to an ongoing basis for the Council's agenda. He noted it was, however, a fairly standard operating procedure by municipalities and the press and he understood why the City was following this. He noted when it came to the point of law, he had not looked into it, but he could.

Smith stated a lot of the information the "guy" printed in the paper was not true. He believed he needed to do his own research and come up with the facts, but now a days reporters do not do that and just said what they wanted. He stated the reporter could do his own research and the City should not have to do it for him. Lewis stated they were enabling. Smith stated the reporter needed to do his own job.

9.0 C Other

None.

10.0 Adjourn

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

Meeting adjourned at 8:53 PM.

Submitted by:

Kathy Altman

TimeSaver Off Site Secretarial, Inc.