

EAST BETHEL CITY COUNCIL MEETING

April 8, 2024

The East Bethel City Council met on April 8, 2024, 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: Matt Look, City Administrator
Tom Loonan, City Attorney
Aaron Berg, Community Development Director
Mike Jeziorski, Deputy City Administrator/Finance Director

1.0 Call to Order

The April 8, 2024, 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 2023 Audit Presentation: Abdo – Res. 2024-31, Accepting 2023 Audit

Jeziorski stated the 2023 Annual Financial Report has been prepared, audited, and is presented for review and approval. Abdo, the City's Auditor, will present the report to Council.

Jeziorski stated upon completion of the City Auditor's report, staff recommended adoption of Resolution 2024-31, accepting the 2023 Annual Financial Report for operations and activities of the City of East Bethel for fiscal year 2023 and direction to submit the report to the State Auditor.

Brad Falteysek, Abdo, presented a slide presentation regarding their opinion and their responsibilities in arriving at that opinion. He indicated it was their opinion that everything in the financial statements was materially accurate and in accordance with generally accepted accounting principles. He stated they were not reporting any non-compliance issues. He noted both reports were "clean reports" this year, which was good.

Alex Trippel, Abdo, reviewed his background and the City's financial results.

Mr. Falteysek stated East Bethel overall was in good shape and doing well. He noted East Bethel has been historically lower than the other cities in Anoka County and the State in general. He indicated the City appeared to be operating more efficiently than others.

Lewis thanked Abdo for their great job and excellent report. Mr. Faltesek responded Jeziorski did a nice job in getting everything ready.

Miller stated I'll make a motion to adopt Resolution 2024-31, Resolution Accepting and Adopting the 2023 City of East Bethel Annual Financial Report. 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.**

5.0 Public Forum

Tammy Gimpl, Baton Street, questioned agenda number 8.0G.2. She asked why and was Council looking for this and if the Fire Department had initiated this.

Mundle asked how this came to be. Lewis responded it was different conversations with different people including the Fire Department. He noted the Fire Department accounted for approximately \$1.1 million of the City's budget and to his knowledge, there had never been a third party outside of the Department look at how they were doing and if they were doing everything they were supposed to be doing. He indicated Look knew this gentleman, who does this for a living. Lewis indicated this gentleman gave the Council a presentation at the last Work Meeting, and both the Council and Fire Chief Sanow agreed this would be a good idea so they asked him for a proposal.

Lewis stated they had a huge cost increase in the Anoka County Sheriff's Department last year, which was managed at the County level. However, the City managed the Fire Department and the Council wanted to do their due diligence and get facts. When they found out that no one had ever looked at the operations of the East Bethel Fire Department as far as they knew, the Council believed it would be the prudent thing to do to get a third party's opinion.

Ms. Gimpl asked if they had looked at any other consultants for this. Lewis responded he had looked online but could not find any other Minnesota consultants. He noted out of State consultants would also charge for their travel expenses and could cost up to \$50,000.

Ms. Gimpl expressed concern about a "Good Ol' Boys Club" in the Fire Department and the Council. She indicated she had nothing against Mr. Streich but he was known in the City.

Lewis asked Ms. Gimpl if she knew of anyone better to recommend. Ms. Gimpl responded if the Council honestly wanted her to look, she could probably get a couple of consultant names tomorrow. She did not believe there were no other consultants in the State. She indicated her issue was that they hired a Fire Chief to do everything and what they were reviewing, was the Fire Chief.

Lewis indicated it was important to have an independent party look at this and it would be great if they could find someone who had no knowledge of anyone. Ms. Gimpl indicated she appreciated what the Council was doing, but if they did not trust the Fire Chief and what he was doing, maybe they should hire someone else to come in.

Lewis stated the first thing they needed to find out from an independent party was if there was a reason for concern. Ms. Gimpl stated instead of interviewing someone for the Fire Chief's position in the first place, they hired from within which to her was a "Good Ol' Boys Club."

Lewis noted they were doing due diligence in getting an independent opinion on how things were going. Ms. Gimpl responded they might get what they paid for and she believed they were just throwing away more money.

Lewis indicated if Ms. Gimpl had any other parties to recommend, he would commit to talking to other parties. Ms. Gimpl responded she would give Council the names of some other consultants.

6.0 Consent Agenda

~~Item A: Approve Bills~~

Item B: Approve Meeting Minutes March 25, 2024 City Council Work Meeting

~~Item C: Maynard Peterson Park Field Use Agreement~~

~~Item D: Res. 2024-32 Supporting HF 5189 and SF5309~~

Mundle and DeRoche requested to pull Item D. Lewis requested to pull Item A. DeRoche requested to pull Item C.

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

Lewis asked what the bill of \$12,297 for software licensing to Anoka County Fire Protection Council was for. Look responded it was for the public safety data system, which was extremely expensive.

Miller asked how many times a year was the software updated. Look responded it depended on how often the software was updated, but he was not sure of the exact length of time. He noted on the prior system, everyone entered their own data and it was now shared. With this system, everyone was on the same page, and when it came to prosecution there was clarity which was important.

Lewis stated I'll make a motion to approve Item A 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 C Maynard Peterson Park Field Use Agreement

DeRoche asked if the East Bethel residents ever got to use the fields because it was always under contract. He noted the residents were the ones paying for the park and part of the reason for having the park was so residents could get outside and play ball. Look responded this was transferring the agreement from one entity to the other, and they could not prevent access to the athletic field by other users. He indicated there was a scheduling process that occurred.

DeRoche noted there had been issues in the past.

Mundle asked if this was different than when other clubs used the Booster fields. Look responded he did not know if it was different, but he would ask Ayshford and get back to the Council.

Mundle stated he knew other ball clubs used those field as well. Berg believed the term non-exclusive use said that it was not just theirs to use.

DeRoche stated I'll make a motion to approve Item C of the Consent Agenda. Mundle stated I'll second. Lewis asked any discussion?

Look noted Ayshford had just texted him and indicated the contract was for weeknight use and no daytime or weekends. He noted the public would find more use for it on the weekends.

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

6.0 D Resolution 2024-32, Supporting HF 5189 and SF5309

Mundle stated Council had not discussed this before in any meetings and he believed this was a big thing for the City. He requested Look give a summary on this as he knew some residents had questions if they were going forward and if residents would have to hook up to it. Mundle acknowledged this was very early in the process, but it was a concern residents have had. Look explained this was not bonding the City was taking on and it was State bonding. He stated East Bethel Elementary and Cedar Creek Elementary had an interest in hooking up to City utilities and there was a main trunk line running by Highway 65, but there was not a water feature or water tower in the area that the schools could hook up to. This was an ask to the State that they have participated in the past for clean water scenarios and infrastructure projects such as this.

Look indicated right now, the State had many Bills in for various similar projects. He stated the schools had septic systems right now which would need replacing at some point. The schools did not

want to do a replacement if City services were going to be available. He noted this was an ask to the State and Resolution supported these so it could be presented to the appropriate State committees.

Mundle asked if this was awarded, would there be any cost to the City or the residents. Look did not believe there would be any difference in costs short of finding some sort of unsuitable soils. Essentially, it would cover a water tower, a water treatment facility, the piping to get it to the schools, etc. He stated it should cover the costs if the estimate was accurate. He indicated no cost to the City or residents would be the goal.

DeRoche stated when he was on the Council previously, he voted against it. And at that time, the residents were told not to worry and if they do not hook up, they did not have to pay; that it would not cost the City. He asked if the City Engineer had looked at what he had dropped off. He noted it would be a shame to run it to the force main and then have it be too small. DeRoche stated he was for the schools, but they were still paying a large Bill on the last sewer/water project that was not supposed to cost anybody any money.

DeRoche noted once they get into this and started down this road, they would not just stop and turn around because the momentum was going fast and hard. He agreed with Mundle that the Council had not discussed this and he wanted to see the facts and figures. He stated unless someone put into writing that this was not going to cost the City or residents any money, he would not go for it. He indicated he needed a lot more information.

Mundle asked if the Council said they did not want it, was there any cost to turn it down. Look responded there would be no cost. He indicated they had a discussion with the City Engineer in a staff meeting concerning this where the main question was if the force main could handle the additional hookups. The response was that it could handle it as there was capacity. Look indicated the City Engineer had come up with documents putting together estimates. He stated the City was discussing the possibility of another industrial park area and this area would feed off this same sewer/water system, so this was kind of building in anticipation of that as well as with the State's funding.

Lewis stated the Council who had put the debt on the City and residents had not gone out to find other people's money, like State bonding. He indicated to him, he saw this as a fundamental difference as to what was done before. He believed they needed to trust the City Engineer as he was around when the system was put in. DeRoche stated the City Engineer had come on after the fact.

Lewis pointed out there is a fundamental difference between the way it had been done in the past and now. He noted now they would be using other people's money.

Look stated they did look at the price of what a water tower and water treatment would be and how much piping would be necessary. He indicated the City-owned land on the east side of Highway 65 by the Post Office had been identified as a possible location, which would save costs also. He noted that Ayshford and Yocum have worked very closely with him on this in trying to come up with a solid figure. Lewis responded he had confidence in all of the people involve, including Ayshford.

Mundle asked if the Ordinances said anything about mandatory hookups. DeRoche stated a State Statute said if a sewer/water went by your business or residence, you could be forced to hook up.

Berg stated read Section 74 123 regarding mandatory connection to City systems. He believed it would be a requirement for mandatory connection if it were available.

DeRoche stated they had lost four businesses in the sewer/water district previously even though they had taken advantage of the low-interest loan program, but some could not afford to hook up.

Berg suggested the City Attorney look at this to determine whether it required hooking up or not. Look noted it depended upon whether it was a Charter city and cities had different scenarios. He indicated for this meeting, they should focus on whether they want to expand a commercial/ industrial sector of the City and if so, it would need City sewer services. If they wanted to connect the schools, it needed City sewer/water services and the City would need to pay \$10.5 million to make that happen.

Look stated the issue was that there were two Bills that if they were funded, the State would pay that instead of the City. He acknowledged there was a \$15 million outstanding Bill and this was \$10.5 million. However, in the future, they were not going to be getting another \$10.5 million on top of the \$15 million they were already paying.

Miller stated it was his understanding the Bill was telling residents that they were going to be supporting this bond or water tower program and the residents should not have to pay anything. He indicated that made it "much easier to swallow." He asked if he was understanding that correctly. Look responded this was primarily for the school and at this point, they did not have any businesses that were hooking up. He noted there were a lot of possibilities in the future that may or may not happen and this was strictly for the school. Look indicated the school district was desperate to hook up. He stated the City had options and if they decided not to take the \$10.5 million, they could go to the school district and ask for some contribution from them also.

DeRoche stated in other words, if they did not take the money and the school district did not pay for it or make a contribution, then it would be saying they needed to raise another levy. Lewis responded that they had the option of not doing it also.

Look agreed with Lewis and stated if the bids came in too high, they could decide to not do it.

Mundle 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. **Mundle, Miller, Smith, and Lewis.** Lewis asked any opposed? **DeRoche** That motion passes. **Motion passes 4-1.**

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

7.0 A Planning Commission

7.0 A.1 Planning Commission Appointment

Berg stated on February 12, 2024, Commissioner Joe Reiter submitted a resignation to the members of the City Council which created an open position on the Planning Commission to be filled. Berg indicated City staff advertised the opening and have received two Letters of Interest. The Letters of Interest were provided for the Council's review and consideration.

Berg stated the Planning Commission conducted interviews of both candidates at its March 26, 2024 meeting. At the conclusion of the interviews, the Commission voted to recommend the appointment of Eldon Holmes for a partial term expiring January 31, 2026.

Berg recommended the City Council review the applicants' Letters of Interest and resumes, consider the Planning Commission's recommendation, and consider appointing candidate to fill the Planning Commission vacancy.

DeRoche stated I'll make a motion to appoint Diana Saenger to the Planning Commission. Smith stated I'll second. Lewis asked any discussion?

Smith stated the reason he supported Diana Saenger was that he was at the Planning Commission meeting and heard the interviews and he believed Ms. Saenger was a very qualified person for this

position and he felt they needed new people on the Planning Commission to change things up and move forward in a better direction than they had been.

Lewis called the question.

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.**

7.0 A.2 IUP: Commercial Kennel – 625 221st Avenue NE – Andrew Benik

Berg stated the applicant had requested that his application be withdrawn.

DeRoche stated I'll make a motion to pull Mr. Benik's application. 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.**

Mundle thanked Mr. Benik for trying to follow his passion and in a different circumstance, he believed this would have been a fantastic business. Berg stated Mr. Benik's intent to request an Ordinance change so Council would be hearing from him again.

7.0 A.3 Variance: Setbacks – 18440 3rd St NE – Steven Franker

Berg stated the City has received an application for a variance on this property, which is located in a Rural Residential (RR) Zoning District, in the Bear Hollow Subdivision. The property owner is requesting a variance for the placement of a detached accessory structure closer to the front lot line than the principal building and a reduction in rear yard setback standard from 25 feet to 18 feet.

Berg reviewed Zoning Appendix A. He explained this property is 2.02 acres, with the primary structure set back approximately 95 feet from the front lot line. This request does not meet the criteria set forth to allow the structure to be placed closer to the road, so a variance would be required for the placement of a detached accessory structure. Additionally, the property is irregularly shaped, backs the Oak Grove city boundary on the west, and has two ponds / wetlands, as well as the septic tanks and drainfield south of the principal dwelling. The well is located north of the principal dwelling making placement of the proposed detached accessory structure behind the front foundation line of the principal dwelling impractical.

Berg reviewed the three-factor test for practical difficulties and stated on March 26, 2023, the Planning Commission held a Public Hearing and no one spoke except for the applicant. At the conclusion of the public hearing and discussion the Planning Commission made a formal recommendation to the City Council to approve the variance request by a 5-0 vote.

Berg requested the City Council review the request, consider the Planning Commission's formal recommendation, and consider approving the variance request for the placement of a detached accessory structure nearer to the front lot line than the principal dwelling and a reduction of the standard rear yard setback from 25 feet to 18 feet with conditions as presented in Resolution 2024-27.

Lewis noted it was prudent that the DNR was okay with the setback. He asked if Berg had heard from the DNR. Berg responded he had sent a formal letter for the variance request to the Minnesota DNR and had spoken with a DNR planner who indicated if the DNR had an issue with the request, the City would hear back from them. As of today's meeting, he had not heard from the DNR, so he assumed that the DNR had no issue with the request.

DeRoche stated I'll make a motion to adopt Resolution 2024-27, a Resolution Approving a Variance for the Placement of a Structure Nearer to the Right Property Line than the Principal Structure and

a Reduction from the Rear Yard Setback Standard of 25 feet to 18 feet from the Construction of a Residential Detached Accessory Structure on property located at 18440 3rd St. NE (PIN 31-33-23-32-0001). Mundle stated I'll second. Lewis asked any discussion?

Lewis inquired what the driveway plans were. Berg displayed the site plan and noted where the driveway would be located.

Smith stated he had looked at the property and that was literally the only place the applicant could put a detached accessory building and he did not think it would interfere with anything. He believed this was a good choice.

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

Motion passes unanimously.

7.0 A.4 Variance: Second Driveway – 20910 Buchanan Street NE – Scott Pflipsen

Berg stated on February 22, 2024, the City of East Bethel received a Variance application from Scott Pflipsen, the property owner at 20910 Buchanan Street NE, for the construction of a second driveway/ access to his parcel off of Buchanan Street NE. In 2021, Mr. Pflipsen was permitted to construct a detached accessory structure on his property. Due to the placement of the primary residence on the north side of the parcel and its proximity to the side yard lot line, Mr. Pflipsen constructed the detached accessory structure on the south side of the primary residence. The layout of the home placed the garage on the north side of the house, away from the detached accessory structure. This orientation places the driveway/access nearly 75 feet away from the newly constructed detached accessory structure. Adding to the existing driveway to get the detached accessory structure would taking up the majority of his front yard. A driveway that provides direct access to the second garage could look better than an extension that runs parallel to the City right-of-way through the front yard.

Berg indicated on March 19, 2021, when Mr. Pflipsen applied for his detached accessory structure permit he indicated that there would be “no second driveway.”

Berg reviewed Section 10, General Development Regulations, Sub. 15. He stated there are two other parcels in the Hidden Haven County Club Estates that appear to have second driveways. A historical review of the GIS aerials provide information that one of them existed prior to 2008 when the ordinance revision occurred prohibiting second driveways from R-1 and R-2 Zoned parcels.

Berg indicated the consideration of a variance requires the consideration of a three-factor test for practical difficulties. In this case it could be argued that the practical difficulties can be partially met therefore alternative findings of fact have been included for consideration.

Berg reviewed the three-factor test.

Berg stated on March 26, 2024, the Planning Commission held a Public Hearing and reviewed the application information. There were multiple neighbors who spoke in both opposition and support of the request. Concerns ranged from property values, precedence, potential business, extra vehicles, and deterrent for future home buyers. Support from three neighbors were voiced and the applicant presented a document with 24 additional neighborhood signatures in support. By a 3-2 vote, the Planning Commission recommends approval of the variance request for the placement of a second driveway at 20910 Buchanan Street NE.

Berg requested the City Council review the request, consider the Planning Commission's formal recommendation, and approve or deny the variance request for a second driveway as presented in Resolution 2023-28A or B.

Mundle stated I'll make a motion to adopt Resolution 2024-28 Resolution Granting a Variance for the Placement of a Second Driveway on Property Located at 20190 Buchanan St NE (PIN: 17-33-23-23-0021. Miller stated I'll second. Lewis asked any discussion?

DeRoche stated it made sense to extend the driveway to finish it, but this was also not a situation that was topographical and he was concerned that residents would put in the homes and then down the road, will ask for a variance. He believed that was something the Council needed to take into consideration at the initial planning level because at some point, the answer would be no and then that person would ask why it was allowed in this situation.

DeRoche noted the Planning Commission did not vote in favor of this unanimously. However, he agreed it did make sense to finish the driveway to make it look right.

Miller stated he had looked at this property and the applicant had a very nice house, but unfortunately, the way the house was situated, the garage was on the wrong side. He indicated to put a driveway through someone's yard was tough.

DeRoche asked if the City had a similar issue a while ago and that person was required to remove the driveway. Berg stated in this situation, the City had stopped construction on the driveway before it was put in. He explained what the Ordinance said and noted if the applicant had originally said he was intending on putting in a driveway before he built the garage, he would have been informed that he could not do that. In this instance, the applicant had said he was not going to put in a driveway.

Lewis stated it looked odd without the extension to the street and to have an apron driveway in dirt. Berg stated to his knowledge, the concrete was being framed for the driveway when the City requested the stop work order.

Lewis stated he did not like asking for forgiveness instead of asking for permission, but the Council could do what they wanted on this one.

Berg stated when the garage was put in, it was unknown how many trips a week there would be. He indicated if this were simply used for storage, it would not need to be accessed every day. He noted the City did not ask those questions and the applicant was not required to answer them.

Lewis noted a Class 5 driveway would not have been permitted either. Berg agreed and indicated it would not as this was on an improved street, so the applicant would have been required to improve the surface to match or be superior to what the right-of-way had.

DeRoche asked if this stayed dirt, was there going to be more of a hazard as it would turn to mud when it rained and the applicant would be putting mud on the street. Berg noted there had been neighborhood complaints about the second driveway and this was how it became a pending Code enforcement case.

Lewis asked for a further explanation of Berg's comment. Berg responded the City received a call from a neighbor who lodged a formal complaint that the applicant was in violation of the Code because second driveways were not permitted and the continued use made this a second driveway as it compacted the soil and no vegetation was growing. He noted this did not meet the zoning standard so the City's response was that this would be investigated and a letter was sent to the applicant in which the applicant called the City for his options, which were to remove it and put in a driveway across the front yard or request a variance.

Mundle asked if there were other driveway Code violations in the neighborhood. Berg responded there were two other properties that had second driveways. One was allowed to remain gravel as it

predated 2008 and the other driveway was not paved, but it was getting regular use. He indicated that driveway had compacted and there was no vegetation. Berg noted there was also a driveway with 24 feet as well as a couple of driveways that were beyond the standard 24 feet.

Lewis asked if there were any neighborhood covenants that addressed this. Berg responded there were neighborhood covenants, but they did not specifically address driveways. He noted though that the City Code did not take into consideration neighborhood covenants because covenants were private agreements between the developer and the homeowners, so the City did not enforce the covenants. He indicated the detached accessory structure met City Code.

Mundle asked in order for covenants to be enforced if this would be a civil issue. Berg responded that was correct.

Smith asked if the person who complained about this had filed a written complaint. Berg replied they had.

DeRoche asked at what point did common sense kick in. He indicated this was not black and white and they needed to be able to reason things out. He stated this could be creating a safety issue on the street as well as not looking very good. He noted it was unfortunate, but that was the way it went.

Berg stated without a solution such as a variance or the requirement of the driveway being extended across the front yard, this would eventually end up with citations and in litigation because it was a violation of the City's Code. He indicated with a formal complaint being filed, it needed to be rectified in some form whether that be the applicant was not allowed a second driveway, or the variance was issued for a second driveway, which would take care of the complaint.

Loonan stated in looking at the variance, it was the practical difficulty test in the findings because if the decision of the Council, whether it was approved or denied, could be challenged in the Court system and that would be the standard they were going to look at. He indicated the discussion was relevant to the factors, but in making the determination, he recommended they were making them based on those critical criteria under the practical difficulties so it would hold up to scrutiny. Those were the standards even though the other stuff they were discussing could have some relevance also.

Berg stated that was the reason he had written the alternative answers to the first version, so there was a finding of fact in either direction because there might be support for partial in both cases. He indicated if the Council chose to approve the variance, there was a Finding of Fact to support it, and if they chose to deny it there would also be a Finding of Fact that would support the denial.

Lewis asked the applicant to approach the podium.

Lewis asked Mr. Pflipsen if he had spoken with the neighbor who had made the complaint. Mr. Pflipsen responded that neighbor was a snowbird. He believed his neighbor was concerned about parking more vehicles in the driveway, but he indicated there were no vehicles in the driveway. With respect to the concrete pad, he indicated that was put in as the garage was put up. He stated he had been driving over the grass three times per week and then he got complaints that it was starting to turn to mud. He indicated his only other choice would be to put the driveway through his front yard, which would not look good.

Lewis acknowledged it would not look too good to have the driveway go through his front yard, but he might vote in opposition to this as he had a real issue with asking forgiveness after the fact. He did not like encouraging this stuff and ignorance of the law was no excuse, but he was also a libertarian so he did not like heavy handed government either. He indicated he was really "in the crosshairs" on

this one.

Lewis acknowledged DeRoche's comment about common sense and it would look better to have a finished driveway, which did make sense, but it was the way this was done. He called the question.

To the motion, all in favor say aye. **Mundle, DeRoche, Miller, and Smith.** Lewis asked any opposed? **Lewis.** That motion passes. **Motion passes 4-1.**

7.0 A.5 IUP Amendment: 1311 229th Avenue NE – Taras Martynenko

Berg stated B & T Trucking is an over-the-road trucking company that's been in business for over 20 years and has been operating in East Bethel for over 8 years. On May 10, 2021, an IUP was issued by Resolution 2021-28 to allow the continued operation of the business in compliance with City zoning code. Over the past 8 years, the property remains neat and orderly; non-compliance has not been an issue. A street view photo of the property was provided for the Council's review.

Berg indicated as with any long-haul operation, the transportation vehicles accumulate miles and it becomes more cost effective to replace rather than continuing to repair. The owners intend to sell the used fleet and replace with new trucks and/or trailers as needed. Minnesota State Statute 168.27 requires a motor vehicle dealer license be obtained by anyone engaged in the direct sales or leases more than 5 vehicles within a 12-month period (new or used). A motor vehicle dealer's license from the Minnesota Dept. of Public Safety requires City zoning verification.

Berg noted B & T Trucking is located at 1311 229th Avenue NE, which is Zoned Light Industrial. SECTION 48. – LIGHT INDUSTRIAL (I) DISTRICT code identifies motor vehicle sales as a prohibited use.

Berg reviewed Section 04 – Applications and Procedures (I.) Amendment.

Berg stated B & T Trucking is requesting an amendment to the conditions of their IUP to permit the sale or transfer of vehicles in order to continue the business operations. Berg indicated the existing IUP conditions are identified in Resolution 2021-28 and include:

1. Permit shall expire when:
 - a. The property is sold, or
 - b. Non-compliance of IUP conditions.
2. No more than fifteen (15) tractor trailers may be stored on the property at any given time.
3. The Interim Use Permit is not transferable to any other businesses.
4. The property must remain neat and orderly and trucks and trailers shall be screened from the public right-of-way.
5. The fenced storage area must not be expanded from the existing footprint.
6. City Council, at their discretion, may modify conditions at any time.

Berg stated on March 26, 2024, the Planning Commission held a Public Hearing where no one spoke. After review of the information and a discussion, the Planning Commission, by a 5-0 vote, formally recommend denial to the City Council for an amendment to the IUP to permit limited auto mobile sales at 1311 229th Ave NE, zoned Light Industrial (I).

Berg recommended the City Council review the request, consider the Planning Commission's formal recommendation, and approve or deny the IUP Amendment as presented in Resolution 2024-29A or B. If the request is approved, staff request that the IUP Agreement be amended to limit auto mobile sales to fleet only vehicles, owned by the business, as identified in Resolution 2024-29A. The amended agreement shall be fully executed no later than May 1st, 2024.

Lewis stated I'll make a motion approving a Resolution 2024-29 Denying an Interim Use Permit Amendment for B & T Trucking, Located at 1311 – 119th Avenue NE, PINs 32-34-23-34-0005 and 32-34-23-34-0006. Mundle stated I'll second. Lewis asked any discussion?

Mundle asked if, by denying this, did that mean they could not post ads on Facebook Marketplace or anywhere else. Berg responded the City was a complaint-based Code enforcement, so if someone were to complain today that there was a For Sale sign with vehicles out front of the business right now, the City would start Code enforcement action. However, if the applicant chose to not put signs out, and ads were put up electronically and no one complained, then no Code enforcement would be taken, even though by definition this would be automobile sales.

Berg noted according to applicant's IUP granted in 2021, the property must remain neat and orderly with all trucks and trailers being screened from the public right-of-way. He noted they would be in violation of the IUP conditions by one attempt to sell vehicles. He indicated the City had not received any formal complaints at this time.

Smith asked why were they discussing this now. Berg responded the applicant could not sell more than five vehicles because they have to get the City's permission to get a dealer's license from the Department of Public Safety, which they could not get as that was not allowed.

Berg noted the applicant had alternatives such as taking the vehicles to fleet sales companies to be disposed of, but by doing that the applicant would need to pay a commission and would lose some revenue.

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

7.0 A.6 CUPA: 1281 187th Avenue NE – Designing Earth Contracting

Berg stated Designing Earth Contracting, Inc., an East Bethel company is in the finishing stages of their new 19,000 sq. ft. facility, located on at 1282 187th Lane NE. The applicant is requesting to expand the previously approved exterior storage yard to include a 40' x 80' (3,200 sq. ft.) prefabricated, PVC fabric, hoop framed Detached Accessory Structure for general storage.

Berg reviewed the property zoning, Code requirements, Detached Accessory Structures, Architectural Design, and the size and number of accessory structures. Berg stated the main portion of the DEC Facility is on a 4-acre parcel with an adjacent 2-acre parcel. According to size regulations a 4-acre lot would allow for a 2,700 sq. ft. accessory structure. If combined a 6-acre parcel would allow for a 3,240 sq. ft. accessory structure.

Berg indicated on March 26, 2024, the Planning Commission held a Public Hearing which there was no public comment. After a review of the application material and hearing from the applicant the Planning Commission, by a 5-0 vote recommended approval of the CUPA with a condition that the CUPA be revisited in 5 years from the date of approval.

Berg requested the City Council review the request, consider the Planning Commission's formal recommendation, and approve or deny the CUPA as presented in Resolution 2024-30A or B. Additionally, an amended CUP Agreement must be fully executed by the owner.

Mundle stated I'll make a motion adopt Resolution 2024-30 Approving a Conditional Use Permit Amendment for the Placement of a Temporary Detached Accessory Structure in the Permitted Exterior Storage Area on Property Located at 1282 187th Lane NE (PIN: 32-33-23-24-0018) conditioned that the CUP amendment be revisited in 3 years from the date of approval. Motion died for lack of a second.

Smith stated I'll make a motion adopt Resolution 2024-30 Approving a Conditional Use Permit Amendment for the Placement of a Temporary Detached Accessory Structure in the Permitted Exterior Storage Area on Property Located at 1282 187th Lane NE (PIN: 32-33-23-24-0018) conditioned that the CUP amendment be revisited in 5 years from the date of approval. Miller stated I'll second. Lewis asked any discussion?

DeRoche stated this was a "classy" business, but he was concerned that Council did not know what the canopy was made of and what would it look like in a year or two. Berg responded the applicant told the Planning Commissioners that it was expected to have a 5- to 7-year life expectancy from the manufacturer and that was where the Commissioners got to the 5-year requirement, so if the canopy was damaged by that time, the City had a means to require it to be replaced.

DeRoche expressed concern that the manufacturer was located in a warm climate and did not take into account the winter weather in Minnesota. Berg responded that the distributor was located in Ham Lake.

Mundle stated part of his reasoning was that this could always be reapproved every three years considering this was a corner lot and was highly visible. Berg responded if it were Council's wishes, they could add to the motion that if this building were to be in a state of disrepair, which would be a violation of the condition, it would trigger the possibility of the City bringing the applicant back to ask that either the CUP permit be amended again, to repair the building, or to remove it.

DeRoche stated he believed that would be a good thing to do. Loonan advised that if this was what the Council wanted, they could amend the resolution adding that as a condition or debate the current motion and vote on it. He noted if the current motion was approved, then they could vote on an amended Resolution.

DeRoche stated I'll make a motion to amend the approval to add a condition that if this building were to be in a state of disrepair, this would be a violation of the condition which would require this be brought back to Council for either a CUP amendment, or to repair the building, or to remove it. Smith stated I'll second. Lewis asked any discussion? To the amended motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That amended motion passes. **The Amended Motion passes unanimously.**

Lewis inquired as to how large this structure would be. Berg responded if the Council looked at the property, the applicant had 3 lots that have been combined and there was another site which was prepped for a future building. He stated the applicant had informed the Planning Commissioners that when he was ready to build the future building, this temporary structure would be removed and the items stored in the temporary structure would be moved into the new building.

Lewis stated this was a smart way to get a lot of dry storage.

To the original motion, all in favor say aye. **All in favor.** Lewis asked any opposed? The original motion passes. **Original 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 Town Hall Meeting Dates

Look stated the Spring Town Hall Meeting was generally held in April and was proposed for a date that did not conflict with any other municipal or School District meetings. Staff had 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 April 2024 for the dates listed below:

- Tuesday, April 16th
- Thursday, April 18th
- Thursday, April 25th
- Wednesday, April 17th
- Wednesday, April 24th
- Tuesday, April 30th

Look requested that the City Council set a date for the 2024 Spring Town Hall Meeting.

Smith stated I'll make a motion to approve May 2, 2024 for the Spring Town Hall Meeting. Miller stated I'll second. Lewis asked any discussion?

Lewis stated he was not going to go through what happened at the last Town Hall meeting with a "group of self-serving people hijacking the meeting." He indicated he would shut the meeting down if that occurred again. He stated that meeting had strained his patience, it did the City no good, he would not tolerate it this time, and if people did not like it, he would take the blame.

Miller noted that meeting also cost the City a lot of money when someone put in a data request and then never picked up the information.

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 Capstone LLC Contract Approval

Look stated the City was given a presentation by Mr. Jerry Streich, CEO of Capstone, LLC, from Nowthen Minnesota.

Look requested the City Council review and approve the contract. The contract would begin on May 5, 2024 and would include but not be limited to a review of Fire Department's operations, policies, procedures, financial needs, and Department morale.

Lewis stated they had done their due diligence on this. Look noted he had no vested interest in the work Mr. Streich did, but he believed Mr. Streich was fully competent to do the analysis and give the information the City was looking for. He stated if the Council wanted to look at other opportunities,

they could do that in the future but they might ultimately come out with the same outcome.

DeRoche stated he had no issues going with Capstone.

Lewis clarified that this was not Capstone Homes who was building a development in the City, and this was a different Capstone.

DeRoche stated I'll make a motion to approve the Contractual Agreement for Services Fire Service Consulting and Management. Smith stated I'll second. Lewis asked any discussion?

Mundle stated with respect to compensation, he understood the price was going to be \$10,000. Lewis responded that was correct.

Look stated Mr. Streich had given the City an estimate of \$5,000 to \$10,000 and after further discussions, Mr. Streich believed it would probably be closer to the \$10,000.

Lewis stated he would like to add the option service under bullet point B be moved into the primary services. He wanted the Emergency Response Plan reviewed. He also noted the signature line said City of Bethel and not City of East Bethel. Look responded he had noticed that as well and would request that change.

Loonan suggested if the request were to amend the contract, the Council should amend the motion to eliminate any confusion. Then it would be up to Capstone to accept the amendment or decline it and bring it back to the Council at that time or amend their contract if it would be more money for the emergency response plan review, which would then be brought back to the Council for approval.

Look stated the option services were ala carte, so they could be added but there would be some financial ramifications in doing so. He believed they could approve the primary services and any optional service that they wanted. Lewis stated he did not want to approve it without the primary service being there.

Look suggested amending the motion adding optional service be included.

Loonan advised the actual amendment would be for the optional service to be added to the primary service so it would be under the contract price and it would not be an additional cost for the optional service. If it was going to be an additional cost, then Council would need to approve the additional expenditure under a new contract.

Look noted the additional amount could be covered under professional services and that would be approved from the administrative level.

Loonan believed it was important that the motion make it clear what the Council wanted so they did not run into any confusion when additional services are billed when the Council might have thought that should have been part of the flat \$10,000 rate.

Lewis stated he would like to approve the contract as amended. Loonan responded if the majority of the Council were inclined to agree to the amendment, it could delay the process and the \$10,000 may no longer be the price with the additional service added, but it was up to the Council if they wanted the amendment in the motion. He indicated they should have a consensus or make a formal motion to amend the motion.

Lewis asked the other Councilmembers if they were okay with the amendment. Mundle responded he just wanted to make sure they knew the cost, but he was okay with the amendment.

DeRoche asked what would happen if it was \$15,000. Lewis responded they would not do it then.

Look stated the cleanest way to do this would be to have a motion for the primary service and then they would set up another contract with Capstone for the emergency plan if they wanted to charge the City for it.

DeRoche asked if the emergency plan was something the Fire Chief was supposed to do. Look responded yes, and they were required to have one.

Lewis stated his intent was to have a review of the emergency plan, included in the primary services and that was the intent of the proposed amendment.

Berg stated Lewis could make a motion to amend the current motion to include the emergency response in the primary in an amount not to exceed \$10,000 and then vote on the amended motion and if Capstone said they could not do it for \$10,000 and the cost would be \$15,000, then the Council would see another contract in the amount of \$15,000.

Mundle stated that sounded like a good plan.

Loonan stated that was correct, and if they were looking at this as a contract, an offer had been made to the City, and if Council were looking to modify that offer by adding additional services, Capstone would have the opportunity to either accept or deny it. He indicated the City was basically making a counteroffer and if Capstone agreed to it, then the City would enter into the contract.

Lewis stated I'll make an amended motion to amend the contract to include the review of the City's Emergency Response Plan, which as in the original form of the contract was included as an optional service but include the optional service in the primary service with compensation to be no more than \$10,000. Miller stated I'll second. Lewis asked any discussion? To the amended motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion to amend passes unanimously.**

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

9.0 – Other Items

9.0 A Staff Report

None.

9.0 B Council Reports

DeRoche stated he heard that the golf course was going to be open for another year. Berg responded he had not seen any formal information regarding this, Capstone was still in the process of getting information gathered, and the Council might see the Final Plat in May, but Capstone still had a lot of work to do. He stated he did not believe the sale had been finalized as of yet.

Mundle stated he had a Sunrise River WMO meeting with good news that they had some shoreline revision grants approved for next year to help improve multiple shorelines on the lakes. He indicated Sunrise also found another potential source for grants that they were investigating and right now, it was looking good that they might have a new grant source. He noted he saw that MnDOT had put out a statement that road construction would be starting on Highway 65 this coming week. Look stated he had spoken with Shiela Kauppi about this and he expected they will be coming to the next Council meeting to give an update.

9.0 C Other

None.

9.0 D Closed Session

9.0 D.1 19141 East Front Blvd NE – Attorney Client Privilege to discuss pending or threatened litigation – MN Stat, Section 130D.05, Subd. 3(b)

Loonan stated thank you Mr. Mayor. For the benefit of the public, we'd note that at this time the Council's about to go into Closed Session to discuss pending or threatened litigation under MN Stat, Section 13D.05, Subd. 3(b), 19141 East Front Blvd NE.

This Closed Session will be tape recorded as required by Statute with that tape being maintained for a period of two years. The Council will come back into Open Session after having concluded its Closed Session and announce if there are any actions taken during the course of the Closed Session. With that being said, Mr. Mayor, I recommend that a motion be made to go into Closed Session for the purposes I've indicated.

Council recessed for a short break at 9:35 p.m.

DeRoche stated I'll make a motion to go into Closed Session for the purposes that City Attorney's indicated. Smith stated I'll second. Lewis asked any discussion? All in favor say aye? **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

(Council moved into Closed Session.)

(Council reconvenes Open Session.)

Loonan stated thank you Mr. Mayor. For the benefit of the public and for the record, we note the Council is back in Open Session after having concluded a Closed Session pursuant to attorney-client privilege. The Closed Session was attended by the entire Council, City Administrator Look, Community Director Aaron Berg, and himself and no formal action was taken. With that being said, Mr. Mayor, that concludes the summary report required.

Loonan stated while no formal action was taken in the Closed Session, he believed it was the desire of the Council to make a motion to reconsider.

DeRoche stated I'll make a motion for reconsideration of Resolution 23-19 at the next Council meeting on April 22, 2024. Smith 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.**

10.0 Adjourn

Mundle 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 10:14 PM.

Submitted by:

Kathy Altman

TimeSaver Off Site Secretarial, Inc.