

EAST BETHEL CITY COUNCIL MEETING

April 22, 2024

The East Bethel City Council met on April 22, 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
Eric Larson, City Attorney
Rodney Sanow, Fire Chief
Aaron Berg, Community Development Director
Nate Ayshford, Public Works Manager

1.0 Call to Order

The April 22, 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 adding Supplemental Payment Summary to the Consent Agenda. DeRoche stated I'll second. Lewis asked any discussion? To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

4.0 Presentations and Public Hearings

4.0 A Anoka County Sheriff's Report

Lieutenant Derek Peters presented the March 2024, Sheriff's Report, stating the Sheriff's Department responded to 336 calls. He introduced the seven Deputies that served East Bethel and presented a biography on each one. He thanked the City and citizens for their support and the good working relationship they had built with the community.

Sheriff Brad Wise updated the Council on how things have been going since his last update. He indicated things were going well with recruiting and retention. He noted there was talk of replacing the current Anoka County jail in the City of Anoka and he wanted the Council to know that they were being very mindful of the expense of this project. He offered the Councilmembers the opportunity to tour the jail to understand the scope of the project and the need for the new jail.

Mundle inquired about the timeline of the new jail. Sheriff Wise responded that the present jail had structural issues. He indicated they had some designs on paper and the City of Anoka would need to submit a building project to the Planning Commission for the City of Anoka that would need to be approved, but they were not in a place yet where the Commission and City was willing to approve a design. He encouraged the Councilmembers to reach out to their County Commissioner to make sure they understood how important this was. However, as of now, nothing had been approved yet.

Mundle asked if the end of the year did Sheriff Wise anticipate there would be an approval. Sheriff Wise responded he hoped so, but the first study to redesign the building was completed in 2017 and the building had not been approved yet. He indicated the facilities people within the County were weighing how much to invest in a building that was "crumbling." He stated that they did not want to

spend money on a building that would be torn down, but if they could not get approval, then they would be forced to invest in the current building.

Lewis asked what was driving the cost increases. Sheriff Wise responded that the cost increases were due to delays. He indicated it would have been great if they could have had the building completed pre-Covid because material costs and labor had gone up in the last few years.

DeRoche asked what was the “sticking” point between the Anoka County Sheriff and the City of Anoka. Sheriff Wise responded it was the proximity of where the jail was located. He noted the City considered where the jail was located their historic district and they saw this was the opportunity to get the jail out of their downtown. However, the Statute said the jail had to be located in the County seat and the City of Anoka had benefited from it being the County seat for a long time. He stated it would be inefficient and more expensive for the jail to be located in any other place than where it was currently. He indicated the jail needed to be connected to the courthouse and if it were not connected to the courthouse, there would be a lot of people going back and forth, which operationally would be very expensive.

Miller expressed gratitude to the Sheriff’s Department, Lieutenant Peterson, Sheriff Wise, and all of the dedicated members of the Sheriff’s Department for their unwavering commitment to keeping the community safe. He stated the monthly reports provided valuable insights into the efforts and challenges they faced and the City was grateful for their dedication and professionalism ensuring the safety and well-being of the residents, which did not go unnoticed. He noted the City and residents were fortunate to have such dedicated individuals looking out for them.

Look stated it was a pleasure working with Sheriff Wise when he was on the County Board. He shared one statistic he had received from the County Attorney, which was that violent crime had gone up 40 percent in the County. He appreciated the Sheriff’s Department’s Deputies for putting themselves in harms’ way for the City’s residents.

Lewis stated if the Sheriff’s Department needed anything to help them better lead the citizens in supporting the Sheriff’s Department and the Department’s efforts, to let the City know. He indicated he felt fortunate that Lieutenant Peters was the City’s liaison. He stated Lieutenant Peters was “a very good guy. Very smart and funny,” and “had a good sense of humor,” which he appreciated.

Informational; no action required.

4.0 B Fire Department Monthly Report

Fire Chief Sanow thanked the Sheriff’s Department also for all of their work as they were always on the scene with the Fire Department.

Sanow presented the March 2024 report and noted that they responded to 78 calls, of which 59 were medical. He requested when citizens saw that the Fire Department had closed down a lane on a road, or were blocking an intersection, there was a reason for that and to not yell at them or the Deputies as they were just doing it to protect everybody to ensure everyone got home safely.

DeRoche asked if anybody would write down the license number and report it. Sanow responded they did not as they were too busy trying to keep everything else going. He requested people also slow down to 30 mph or less when they see emergency vehicles on the side of the road or in the road.

Smith inquired about the firefighter resignation who had only been on the Fire Department for a short period of time. Sanow responded that firefighter resigned due to personal reasons and the

time commitment required. He thanked that firefighter for her service and noted he had told her once her life settled down, she was welcome to come back to the Fire Department.

Informational; no action required.

5.0 Public Forum

Brock Verzba, 655 198th Avenue North, stated he had a home business for the past 13 years, which was working on vehicles. He acknowledged he had made a mistake and never received a City permit for his business. He indicated everything was fine for 11 years and nobody even knew his business was there, but he made the mistake of hiring somebody and that was when they ran into problems with the City. He explained the City gave him an extension of one year to relocate his business and during that time period he had let his employee go.

Mr. Verzba stated his wife was a realtor and they have been looking for another home outside of the City where he could run his business as he did not want to relocate his business outside of his home, but after two years of looking, they have not been able to find anything.

Mr. Verzba indicated he had recently received a letter from the City telling him to stop his home business within one month, but he was not ready to stop. He noted he had come up with an invention that they are bringing to the market, which was expensive and they have emptied his 401(k), mortgaged their home, etc. to do this as he did not want to work in a garage forever.

Mr. Verzba noted with these new plans, he did not want to commit to moving his business as he did not plan to work on vehicles forever. He stated his wife had quit her realty job to work on this invention also and they were fully funding this themselves through their home business. He acknowledged the City did not agree with him due to City Code, but this was all he had and if the City took his business away, he did not know what he was going to do.

Mr. Verzba requested the City give him an extension of a couple of years as his invention would take off by then and he promised he would never work on another vehicle again. He requested the Council let him proceed with his future plan.

Berg noted Mr. Verzba's contract expires May 31, 2024. He indicated this was not an IUP, but rather an agreement with the City that the City would no longer do Code enforcement on the home-based business if the shop were kept clean, there were no complaints received, no noise violations, and no Ordinance violations. He noted this agreement was made with the idea that Mr. Verzba was going to relocate to a commercial district where that type of a business would be approved.

Lewis stated Mr. Verzba might not be aware of it, but the City had received a complaint. He indicated he does 90 percent of his own mechanical work on his vehicle because it was cheaper. He noted no matter how careful someone was, there was spillage and noise with cars coming and going. He stated people buy their properties to have quiet enjoyment, which was a property owner's fundamental right and they don't want businesses in their neighborhood without an IUP.

Mr. Verzba stated on 5th Street, which was one block over from him, three years ago the City approved for someone to have a transfer case rebuilding facility at his home. He indicated this business had cars coming and going also. He stated he has been dealing with the City on this issue for three years.

Lewis stated this was a different Council and most of the current Councilmembers were not on the Council three years ago. He indicated this Council did not have anything to do with creating the

situation, but now they had to figure some equitable way of resolving it. He noted the people who lived in Mr. Verzba's neighborhood had property rights as well.

Mr. Verzba agreed his neighbors had property rights and he also worked on his neighbor's vehicles. Lewis responded that a couple of his neighbors were apparently unhappy because they sent letters to the City.

Mr. Verzba stated he knows one person who runs a yoga facility out of their home who had an issue and they had cars coming and going. Larson stated the identity of the complainants was not an issue and would not be disclosed or discussed in this public forum.

Lewis stated the topic of Mr. Verzba's agreement was not on the agenda tonight and could not be dealt with at this meeting. Mr. Verzba stated he understood this was not on the Council agenda for tonight, but he asked if the Council would give this some thought and deal with it in the future. He stated this was his entire livelihood.

Rhonda Paulson, 19138 East Front Boulevard, asked with respect to 19141 East Front Boulevard which was on the Council agenda, why was Council reconsidering their previous decision which was to deny the variance. She also asked what changed their mind as there was no new information to reconsider. She stated it seemed obvious to her that the City had been threatened with a lawsuit since it was the City's error that made this happen in the first place. She stated if the City made an error, then they should publicly state it at this meeting. She read from a section of the City Code and asked could the City legally grant a variance that would put the property in violation of other City Ordinances.

Angela Rogers, 19139 East Front Boulevard, stated she agreed with Ms. Paulson and asked why was the property zoned residential rather than seasonal as this was uninsulated and unheated. She indicated there were several structures like this on that end of East Front Boulevard that were clearly cabins. She stated this was not a residence but was a seasonal cabin. She did not believe this property met the three-factor test. She asked how would this be shielded from the neighbors. She did not believe the information about the monitor and mitigation plan was complete. She expressed concern if the property were ever sold, what would the new owners be held accountable for.

6.0 Consent Agenda

Item A: Approve Bills

~~Item B: Approve Meeting Minutes March 11, 2024 City Council Work Meeting~~

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

~~Item D: Approve Meeting Minutes, April 8, 2024 City Council Meeting~~

Item E: Resolution 2024-33, Accepting bids for the 2024 Street Reconstruction project

Item F: Resolution 2024-34, Authorizing Governmental Body to be Party to MnWARN

Item G: Fireworks Contract for Booster Day 2024

Item H: Accept Paid on Call Fire Fighter Resignation

Item I: Approve Supplemental Bill List

Lewis noted Council had not seen the Supplemental Bill list previously and asked if the Council should recess so it could be reviewed. Look responded the bills had come in after the Council packet had gone out and time was of the essence to get them paid. He indicated it was just brought to his attention this morning.

Larson stated if the Council wanted to take a short recess to review the Supplemental Bill List they could. He noted by State Statute, the City had 35 days to pay bills and sometimes there were timing issues the City had to deal with.

Recess and Reconvene

Lewis recessed the meeting at 7:53 p.m. Lewis reconvened the meeting at 7:58 p.m.

Mundle requested to pull Items B and D.

DeRoche stated I'll make a motion to approve Consent Agenda as amended. 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 B Approve Meeting Minutes March 11, 2024 City Council Work Meeting

Mundle noted the Minutes appeared to be incomplete. Look responded he would look into this, but he did recall there was a meeting where the audio was turned on late, but he was not sure if it was this meeting.

Mundle stated it appeared there was a large section missing in the Jordan conversation. He indicated he did not know what they talked about, but he would like to get together with staff to review it. Look stated while the Work Meetings were not broadcast, they were recorded and this could have been the meeting where the recording started late for some reason.

Mundle stated I'll make a motion table Item B of the Consent Agenda. Miller stated I'll second. Lewis asked any discussion?

Mundle stated he would get together with staff on this and welcomed any other Councilmember who wanted to join in on the conversation.

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

6.0 D Approve Meeting Minutes, April 8, 2024 City Council Meeting

Mundle requested on page 5 of 16 on the Minutes, Line 1, change "monetary" to "mandatory."

Mundle stated I'll make a motion to approve Item D of the 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.**

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

No reports given

8.0 Department Reports

8.0 A Community Development

8.0 A1 Variance Reconsideration – 19141 East Front Blvd NE

Berg stated on May 16, 2022, the City received an application from the owners of 19141 E. Front Boulevard NE, to allow the upgrade an existing outhouse to a Type III Subsurface Sewage Treatment System (SSTS), in order to make their newly purchased family cabin a future habitable residence. Due to the size of the .17 Acre Lot, the proposed system design included the placement of a box mound which encroached on property lines and required City permission or variance for its use. City Staff subsequently approved the permit and the system was installed in July of 2022. During a final inspection, it was noted the installed septic box mound was within the required setbacks. A variance

for a reduction of the side and front yard setbacks should have been sought and approved prior to installation.

Berg indicated the applicant requested a variance to reduce the Southern side yard setback standard from 10 feet to 0 - 3 feet, the Northern side yard setback from 10 feet to 6 - 7 feet and the Western front property line from 10 feet to -0.6 feet and -1.7 feet for the placement of a septic box mound.

Berg stated the system meets setback requirements of neighboring deep wells.

Berg noted at the April 25, 2023 Planning Commission meeting, a public hearing was held regarding the variance request. The applicant spoke of the incompleteness of the project and their intentions to improve the property. Five residents signed up and spoke in opposition to the variance for various reasons.

Berg indicated the Planning Commission's recommendation, by a 5 - 0 vote, to the City Council on Resolution 2023-19 was to deny the variance request.

Berg stated on May 8, 2023, the variance request, along with the Planning Commission recommendation, was presented to the City Council. By a 5-0 vote the variance request was denied.

Berg noted on March 25, 2024, the City received a formal request from the applicant requesting the variance be reconsidered.

Berg reviewed Section 04. Sub. 10 Variances noting no application for a variance for a particular use on a particular parcel shall be resubmitted for a period of one year from the date of denial of the previous application unless a decision to reconsider such matter is made by a majority vote of the full city council. Berg stated at the April 8, 2024 City Council Meeting, the Council agreed by a 5-0 vote, to a reconsideration of the variance request.

Berg reviewed the three-factor test for practical difficulties. With respect to the test of reasonableness, Berg stated in this case, septic systems were required for a home to be considered habitable. The approval of the variance would allow this property to be upgraded and used for a residential use.

With respect to the test of uniqueness, in this case, the property has limited space for a drain field due to the lot sizes created by the 1925 plat. There is an 8-foot change in elevation from the front lot line (E. Front Blvd. NE) to the Ordinary High-Water Level (OHWL) at the shoreline.

Berg noted that Minn. R. 7080.1500 requires that a SSTS constructed in a Shoreland area must have at least three feet of vertical separation distance between "redox features" (evidence of groundwater) and wastewater saturated soils (distribution medium). This property's redox feature was located at 1.5 feet (18 inches) below the existing grade at its deepest uphill location. Current setback requirements for wells and structures and DNR lakeshore regulations.

With respect to the factor that a variance would not alter the essential character of the neighborhood, Berg stated in this case, the Coon Lake Residential District has had a significant number of septic variances issued due to smaller lot sizes and the age of the neighborhood.

Berg noted zoning and setback changes have occurred since this neighborhood was originally platted in 1925 which has led to a variety of placements of structures, fences, and landscaping.

A neighboring property (4640 E. Front Boulevard NE) was granted a license in April 2012 to use a portion of Sylvan Street for placement of a septic tank, piping, and a new deep well, in order to upgrade a failing septic system on the property due to limited lot size. In 2012, setback requirements were narrower than current regulations.

Berg stated some of the concern expressed at the Planning Commission meeting was the appearance and aesthetic. One way to remedy the appearance could be to add a screening in the form of a fence. Berg reviewed Section 25. Sub. 2, Section 25. Sub. 4. (B), and Section 25. Sub 4. (F) with respect to fences.

Berg recommended that the Council make a determination on the variance request to the standard and approve or deny the placement of a septic box mound at the southern side yard setback standard from 10 feet to 0 - 3 feet, the northern side yard setback from 10 feet to 6 - 7 feet and the western front property line from 10 feet to -0.6 feet; -1.7 feet at 19141 E. Front Boulevard NE.

Berg stated if approved the following conditions are recommended:

1. The Septic Box Mound must be screened from neighboring properties and ROW.
2. A Monitor and Mitigation Plan must be submitted and approved.
3. Existing outhouse must be removed.
4. A License and Use Agreement for the ROW must be fully executed.

Berg pointed out on the map the location of the property and indicated the survey was done after the construction. He believed they had approximately six feet between the septic box and the property line. He believed the property had likely used Coon Street as long as it existed as an access, but he had not been able to locate information on a vacation of the right-of-way.

Berg noted there are five vacant lots that the City owned which were there for people to have access to Coon Lake. He presented a comparison map and showed what the applicants presented as to what the property looked like when they purchased it noting there was no driveway access. He showed what the property looked like after the box was installed and pointed out there was a spot where they could potentially use as part of a driveway access to get beyond the box mound and then onto their property. He stated some trees would probably need to come out. He showed a rendering of what this might look like with a white picket fence or a brown fence and where the potential access could be located.

DeRoche asked what would happen if they wanted to tear the place down and put a large house up. Berg responded the existing septic would have to meet the standard of whatever number of bedrooms they were intending on constructing.

Lewis inquired about the setbacks. Berg responded that the structure had to be 75-feet off of the ordinary high-water mark.

Lewis stated this property was not 75-feet back. Berg responded this property did not meet that standard. He stated the well also had to be 35-feet from the ordinary high-water level.

DeRoche asked how did they get in there without a driveway. Berg responded the lot had been using Coon Street for as long as it existed.

Lewis believed this was a "hot mess" and asked who was to blame for this. He indicated this had not worked out as they had wanted, so the question was what would they do with it now.

Steve Voss, 19303 Eastern Boulevard, stated with regard to the five streets, they were not lots and were part of the street system, but they were not dedicated streets. He noted there had always been different stories from the neighbors about why those are there. He indicated there were people who lived in the neighborhood that were in their 80s and were born on this road when it was a dirt trail. The roads were put into place in the 1920's and 1930's for fire access so there was a way to get to the lake if there was a fire. He noted that these five streets were actually used by the City for stormwater

also and there had been previous discussions with the local Conservation District about converting these to rain gardens.

Mundle stated he had also heard the roads were there for fire access as well.

Berg showed a historical overview of the maps of the area showing the lot they were discussing. He also showed the survey done by the applicant.

Lewis invited the applicants to approach the podium and explain to the Council what their plans are for the property.

Molly Mosalik, applicant, 19141 East Front Boulevard, stated they planned to enjoy the lake in the summer and to have their family come up to kayak.

Lewis asked if they had any plans to expand. Ms. Mosalik responded they did not have any plans to expand. They would like to improve the property to make it nicer, but not to tear it down.

Lewis stated he had visited this property three different times and he knew other Councilmembers had also visited the property. He acknowledged this was one of those situations where occasionally things happened and somebody made a mistake and then they try to work their way out of it, but "crucifying" the City employee who made the mistake was not an option in this case.

Lewis indicated he understood there was one person who complained about their view of Coon Lake, but to him their view was not very good to begin with, with all of the trees and everything being in the "native state" of the property. He noted there was also no guarantee that they are supposed to have a view of the lake if they did not live on the lakeshore and this was not a right they could make a claim on.

Lewis stated while mistakes had been made, he estimated it could cost \$20,000 plus to return everything to the state they would have been in if everything had been done properly. He believed this would be a lot of work and a lot of wasted effort to convert the septic system to a holding tank. He questioned if that was the best option.

Lewis acknowledged people did not like this, but the strength of resistance against this surprised him. He noted whether it was a fence around it or shrubs around all three sides, it seemed like a more elegant solution. Lewis stated he had struggled with this because of what happened on the other side of the lake, but here they were just trying to minimize the collateral damage.

DeRoche stated he also had looked at the property a couple of times and the septic system was already in the ground and this would save the lake. He noted they could have kept the outhouse. He stated the applicants had said they did not plan on getting any larger either. He suggested the City work with the applicants on a license like they did with Sylvan Street.

Berg stated the City Attorney had drafted a license and should the City bring sewer and water to this area eventually, the license would "kick in" and the applicants would need to remove the septic system and connect to City services.

Miller stated both Smith and him had also looked at the property and he did understand the concerns of the neighbors. He indicated there might be a broader implication in this situation also. He noted that granting a variance to allow the use of the existing septic system would not only prevent the unnecessary costs of removal, but it would also enable the property owners to make improvements on their property, which he believed would benefit everyone on the lake by getting rid of the outhouse. He believed the removal of the outdated structures would also enhance the overall aesthetics of the entire area.

Smith acknowledged mistakes had been made and it was hard to now say to get rid of it because the City had approved it. He did not think it was that big of an “eyesore” either. He believed the driveway part could be accomplished by taking out some trees.

DeRoche asked what would happen in the winter when they would not be able to make the sharp turn. Smith responded he did not have an answer to that.

Lewis asked Mundle what his thoughts were on this. Mundle responded he did not have any additional comments to make.

DeRoche stated I’ll make a motion to adopt Resolution 2024-35A with the conditions as listed and adding licensure for the driveway. DeRoche stated I’ll second. Lewis asked any discussion?

Larson pointed out this provided an opportunity to address the use of the street that had not been governed by any particular agreement for this property for many decades for both the City, the property owner, and any future successors in interest. He indicated this was not a presumed right to use.

Larson stated this was zoned residential, but given the location, it is a legal non-conforming use. He noted any improvements made could not expand the existing footprint, and if the applicants wanted to expand beyond the existing footprint, they would need to seek additional approvals from the City and proceed through the proper process.

To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes 4-1 with Mundle in opposition.**

Lewis stated he knew coming here to this meeting that not everyone would be happy, but he hoped everyone could move beyond this. He indicated he would personally prefer the vegetation to a fence, but it at least was screened.

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

None.

9.0 – Other Items

9.0 A Staff Report

None.

9.0 B Council Reports

None.

10.0 Adjourn

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

Meeting adjourned at 8:42 PM.

Submitted by:

Kathy Altman

TimeSaver Off Site Secretarial, Inc.