

EAST BETHEL CITY COUNCIL MEETING

May 13, 2024

The East Bethel City Council met on May 13, 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
Aaron Berg, Community Development Director

1.0 Call to Order

The May 13, 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 ACBAAC Presentation – Suzanne Erkel

Suzanne Erkel gave a presentation regarding the Anoka County Blaine Airport Advisory Commission (ACBAAC).

Lewis asked Mundle if he had been attending the meetings also. Mundle responded he had not received any notifications regarding the meetings.

Lewis stated he was still receiving the emails and should have forwarded them to Mundle but had not realized Mundle was not receiving them. Lewis indicated he would ensure Mundle was aware of when the meetings were held.

Informational; no action required.

4.0 B Assessor Request for Proposals Presentation

Alex Guggenberger, Anoka County Assessor, reviewed his report/contract on what the County was proposing for assessment services. He summarized the firm history, experience, and qualifications. He noted Anoka County was responsible for 11 out of the 21 jurisdictions that they have contracts with for assessment services.

Lewis asked why the City hired a local assessor instead of the County. Mr. Guggenberger responded he believed the decision was cost related. He noted the County's current cost was very similar to what the City had paid in prior years to their local assessor.

Mr. Guggenberger stated there were certain things that statutorily the County was responsible for such as homesteading, and then there were certain things that the County Assessor could dictate to the local assessors as far as what they do. He noted there were also things they could do that the local assessors could not.

Mr. Guggenberger indicated he was proposing a modified three-year contract to end in April instead of December.

DeRoche asked what would change with respect to the information the City would receive and the presentation given. Mr. Guggenberger responded instead of the current assessor giving the presentation it would be him giving the presentation, but the Local Board would run exactly the same way it currently was. He noted they would answer questions, but the phone calls would be tracked differently so they could tell the Board how many phone calls they had and how many parcels were changed before the Board meeting. He indicated other than that, it would look very similar.

Mr. Guggenberger stated the Board would also have a choice to whether they wanted a local board meeting or an open book process. He explained the open book process meant that they did not have the Local Board meeting so the residents would have the opportunity to appeal with his office up until the day of the County Board meeting. He stated that under this process there was no Local Board.

DeRoche asked who determined the open book process as he had never heard of this before. Mr. Guggenberger responded it was up to the Local Board which way they wanted to proceed. He indicated though that if they went with the open book process, they could not go back to a local board process. He stated he could give the Council more information on this at a later time if they want.

Mr. Guggenberger noted if they decided to go with the open book process, they could still have a meeting each year to hear about values and/or the number of phone calls received, etc.

Mr. Guggenberger asked if the Council had any specific questions regarding the contract.

Lewis noted he had not seen any kind of inflation factor in the contract, but he noticed that if the number of properties changed, then the total bill would change. Mr. Guggenberger responded their bills would change each year based on the parcel counts, so if they had a lot of construction in any given year, the bill would be higher.

Lewis asked if the contract would be a three-year contract. Mr. Guggenberger responded that was correct and he would send the contract to the City for review.

Mundle asked if the County would charge anything additional for attendance at Council meetings, workshops, or other meetings. Mr. Guggenberger responded there would be no additional charge for these meetings.

Mundle asked if there would be any fee for residential consultations when they had to go to resident's property. Mr. Guggenberger responded there would be no charge and they did offer flexible scheduling also and worked with the residents to accommodate their schedule.

Lewis stated his only concern was that they are supposed to make a choice and he liked to have a choice. He noted the lack of responses to the request for proposals meant they had no choice. He asked why there was no interest in someone wanting to do this type of work. Look responded the current assessor was retiring and nobody else had expressed an interest in this type of work.

Mr. Guggenberger noted there was a shortage of assessors in general and it was an aging profession. He indicated East Bethel was also a large enough City to keep someone busy full-time so that could be a factor that local assessors were looking at and being concerned they would not be able to handle the extra work. He noted they would assign an official appraiser for the City.

Mr. Guggenberger explained the way they do quintiles, which was a little different than their current assessor.

DeRoche asked if Mr. Guggenberger's formula was the same one used as the City's current assessor. Mr. Guggenberger explained their system and what system the current assessor had used in which he physically collected all of the data and then inputted that data into the County's system.

DeRoche asked how did they know if they actually went out to the property. Mr. Guggenberger responded they would take a front facing photo which was put into their system.

Look stated this presentation was informational and did not need a vote at this meeting. He noted he would work with Mr. Guggenberger on a contract and would bring it back to the Council at their next Council meeting.

Lewis believed they should keep the Local Board of Appeals and Equalization so people had a sense that their concerns were being heard by someone from the City. Mr. Guggenberger replied that some people did appreciate that and it depended on how comfortable each Council was with this. He noted some Councils were not comfortable in making real estate decisions and they did not want that responsibility.

Informational; no action required.

5.0 Public Forum

David Kiefer, 19056 Jackson Street, stated he had a neighbor who had chickens which consisted of four or more roosters. He indicated the roosters were crowing nonstop from 3:00 a.m. until late at night. He noted they could not sleep with their windows open due to the noise. He stated his neighbor also let the chickens run free from time to time. He stated the noise was a nuisance. He indicated he had spoken with surrounding neighbors also and they all had the same complaint.

Lewis stated he did not know roosters were legal. Mr. Kiefer noted if they were raising chickens for egg consumption, they did not need roosters and if they were raising chickens to mass produce chicks, then they only needed one rooster and not four plus roosters.

DeRoche understood that residents could have chickens, but he thought there was a limit on roosters to one rooster. Berg noted the Ordinance had been changed and maybe staff should go back and tweak the Ordinance to ensure that they types of scenarios could be enforced. He noted when the Ordinance was changed, the City lost some ability to do some enforcement for situations similar to this. He noted a rooster was allowed on a lot larger than a 1.5 acre, but there was no limit written in the Ordinance as to the number of roosters or the number of chickens allowed.

Mundle stated he was against roosters being allowed in the Ordinance.

Mr. Kiefer believed the City had been informed of this previously with two or three other residents complaining about the roosters, but their complaints had been brushed aside.

Lewis stated he had a similar situation in the past with crows and his solution was shot shells and while he didn't hurt any of them, the crows will take off whenever he goes out of his house now. Mr. Kiefer responded he could not shoot at the roosters.

Berg suggested the following wording for an Ordinance revision: Chickens shall not be kept in such a manner as to constitute a public nuisance as defined by the City Code of the City of East Bethel.

Berg stated they would need people to be willing to sign a written complaint and bring it into the City before staff could do any investigation though. He noted the Ordinance said that no more than 12

chickens could be kept on lots smaller than 1.5 acres, so if someone had a 1.75 acre that means they could have an infinite number of chickens. He indicated roosters were also prohibited on lots smaller than 1.5 acres, but it did not specify there was a limit to roosters; just that they could not have a rooster. He believed they needed to tweak the Ordinance so things could be enforced. He noted though with respect to this situation, "the genie has been let out of the bottle," and these residents were allowed to have all of their chickens/roosters until they died off, disappeared, or someone else moved into the residence.

DeRoche pointed out these roosters were still a nuisance. Berg responded the City had a complaint process and formal complaints needed to be made by coming into the City Hall. Mr. Kiefer stated he would file a formal complaint and he would also talk to his neighbors to come to the City Hall to file complaints also.

Berg stated the City also had a fence Ordinance and the chickens should not be running free, but the City needed a formal complaint filed before staff could investigate this.

Mike Henum stated he could not take it anymore. He noted the chickens did not make the noise and they did run free, but it was roosters that were the issue. He indicated he lived next door to the neighbor with the chickens/roosters and he heard the roosters day and night, even with his windows closed. He stated he had to have his TV and fan going to drown the noise out.

Lewis asked how long had this been going on. Mr. Henum responded it had been going on for a year. DeRoche recommended he file a formal complaint also.

Mr. Henum stated that neighbor also had dogs which barked nonstop and the dogs were also allowed to run free through the neighborhood. He indicated the dogs were constantly in his yard and urinating and defecating. He noted the neighbor also owned a Mexican restaurant in Blaine and they brought their trash home from the restaurant and were always overflowing with trash which blew into the neighbor's yards. He indicated he was always picking up their garbage.

DeRoche stated it appeared multiple complaints needed to be filed. Mr. Henum noted Eric Janke had complained multiple times to the City and he was informed to stop calling and complaining. He noted Janke was told to come to a Council meeting and voice their opinions. DeRoche apologized and noted that should never have happened.

Mr. Henum stated he was also still waiting for the public records that he had requested over a year ago.

Janke stated he lived next door to these neighbors and he supported everything said. He indicated he had complained last year to the City and twice a staff person had come out and took pictures.

Janke stated the neighbor's lawn was also just all weeds and they parked all of their cars in the yard. He indicated they have trash trailers, junk, restaurant equipment was sitting out, and it looked horrible. He noted the City had made the neighbor cut their yard last year. He pointed out his neighbor also had parties every night and played loud music in their driveway. He stated the Sheriff had responded multiple times. He indicated the neighbor also had a car fire in their backyard because the car got stuck.

Janke stated with respect to the roosters, this has been going on for over a year. He noted he had tried to talk to his neighbor, but they don't speak English and they were at work all day. He indicated they also neglect their dogs and their horse. He also complained about the smell of ammonia in his backyard due to the neighbor's horse's defecation and it not being picked up. He complained about the loud music. He noted he had been complaining to the City about this for a year and the City even

came out to take pictures, but now the City was telling him to come in for a formal complaint. He indicated this has just been going around and around.

Lewis noted the basic property owner's right was quiet enjoyment. Janke stated this was common courtesy, and the Ordinance needed to be adjusted now. He indicated he did not want to come back in another year for this same thing.

DeRoche pointed out that the Council did not know everything that went on, so it was up to the residents to tell them what was happening. Janke stated he had filled out a complaint form previously and everything should be in the paperwork.

Berg stated the City's Code Enforcement Officer had responded to Mr. Janke's complaint and the neighbors had been told to clean up the property, remove a building, and get an IUP for the horse. He noted the chicken Ordinance had changed and if they received a call regarding this, staff looked at how many acres that person had and applied the Ordinance, but there was no limit in this Ordinance if someone had property more than 1.5 acres. He indicated he did not know how staff could enforce this. With respect to noise complaints, he stated City staff would not be able to go out and listen to noise if it happened on a weekend and the Sheriff's office would need to be called instead. He indicated the Sheriff's Department would need to respond to a noise complaint or a truck on fire in the backyard.

Lewis noted he understood the loud noise was not just on weekends. Janke indicated he had four recordings on his phone with respect to the noise. He stated he thought by calling the authorities the noise would stop, but it had not.

Look stated he did believe the complaints the Council heard tonight have occurred. He noted there had been some staff changes over the past year and he wanted to look into this himself.

Janke recommended the City find a translator because his neighbor did not speak English. Look responded the Sheriff's office might be able to assist the City with this. He noted they could start by sending a letter and informing the neighbor about the complaints and what the next steps needed to be. He indicated staff would follow up on this.

Berg recommended Council take another look at this Ordinance which had been amended March 27, 2023. Mundle stated he would like to take another look at this Ordinance.

Lewis stated they needed to get control of the roosters. Mr. Kiefer noted the chickens did not bother him as they did not make any noise and as far as he was concerned they could have all of the chickens they wanted on their five-acre lot, but it was the roosters that were the problem.

Lewis noted it was also the trash and other items brought up tonight such as the ammonia smell, which was a health hazard.

Larson stated the residents had some legitimate complaints and requests had been made to formally put together a complaint so staff could do the appropriate enforcement. He noted he had also heard that a revisiting of the City Ordinance with respect to nuisance and various livestock such as roosters might be in order for possibly a work session and then proceed from there.

6.0 Consent Agenda

~~Item A: Approve Bills~~

Item B: Approve Meeting Minutes April 8, 2024 City Council Work Meeting

~~Item C: Approve Meeting Minutes, April 22, 2024, City Council Meeting~~

Item D: Approve Meeting Minutes, April 22, 2024, LBAE meeting

Item E: Approve Meeting Minutes, April 22, 2023 LBAE meeting

Item F: Successful Completion of Probationary Period: Administrative Assistant

~~Item G: Cannabinoid Edibles Vendor License Application – Snak Atak Liquor #4~~

~~Item H: Cannabinoid Edibles Vendor License Application – Dino Mart #1~~

Item I: Resolution 2024-37, Allowing Route 65 Temporary Liquor Sales in a City Park for Booster Day Event

Item J: Resolution 2024-37, Allowing Route 65 Temporary Liquor Sales in a City Park for Booster Day Event

~~Item K: Resolution 2024-38, Approve Application to Conduct Off-Site Gambling (Bingo) for CHOPS, Inc. for Booster Day Event~~

Item L: Successful Completion of Probationary Period: Paid On-Call Fire Fighter

Miller requested to pull Item A. Mundle requested to pull Item C. Smith requested to pull Items G and H. Lewis requested to pull Item K.

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

Miller asked what the charge from Rum River Tree and Nursery was for. Look responded that was for trees to replace diseased trees which had been taken out by near the Fire Department.

Miller inquired about the street maintenance charges. Look responded the street maintenance charges included fire station lights, parks recycling center, sirens, streetlights, pumps, etc. He noted some would use more electricity than others, but it was based on kilowatt hour.

DeRoche asked if the bills would go up because they had to pay for new sirens. Look responded the City was not paying for new sirens. He noted the County was updating their weather warning systems which required a board change on the control panel. He indicated in order to receive a signal from the County, they have to replace the board which cost \$1,995, installation included. He indicated they had until 2025 to do this and it had been budgeted for as they were aware that this was coming.

Lewis questioned the internet service providers charges which had been allocated in amounts to various departments. He noted the charges added up to \$7,300. He asked if this was a monthly charge, or a quarterly charge. Look responded Jeziorski was the staff person who approved those bills.

Lewis stated one of the things that "bugged" him was people who positioned themselves in business to be the sole source suppliers to government entities and then once they were in, they were in it forever. He indicated he had an issue with the City's internet service provider with them quarantining certain emails, but then letting other emails through. He noted he did not understand the service provider's algorithms or methodology regarding this.

Lewis asked if the City was paying almost \$100,000 a year for internet service. Look responded the City had a budget and the charge would be per the contract.

Lewis requested staff look through the contract and inform him what the charges were and to also speak to the provider to obtain information on their firewall and quarantining emails. Look responded he would ask Jeziorski to look into this.

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

6.0 C Approve Meeting Minutes – April 22, 2024 City Council Meeting

Mundle noted on page 85 of the Council packet, Lines 22 and 23, he voted nay on the variance on Front Street, and it should state motion passes 4-1.

Lewis requested on Page 80, Line 3, delete: Lewis stated either way he had to go.

Larson pointed out the next sentence should read, "Lewis stated this was a different Council."

Mundle stated I'll make a motion to approve Item C of the Consent Agenda. Lewis 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 G Cannabinoid Edibles Vendor License Application – Dino Mart #1

6.0 H Cannabinoid Edibles Vendor License Application – Snak Atak Liquor #4

Smith asked what application did the City have for cannabis edibles. Look responded Carrie Frost was the person responsible for this and she was on vacation, but he will get Smith a copy of whatever documentation she was provided.

Larson believed these applications indicated that this was a retail establishment, and they were going to be selling these particular items.

Mundle stated he thought this was changed to follow tobacco licenses, so the form was similar to the cigarette form for tobacco.

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

6.0 K Resolution 2024-38, Approve Application to Conduct Off-Site Gambling (Bingo) for CHOPS, Inc. for Booster Day Event

Lewis asked what was CHOPS, Inc. Mundle responded CHOPS was the marching band that is a fundraiser who raises funds and then donates those funds back throughout the communities.

Lewis stated I'll make a motion to approve Item K 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.**

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

7.0 A Planning Commission

7.0 A.1 Variance Request: 21333 Durant St NE – Driveway Paving Standards

Berg stated on March 15, 2024, the City of East Bethel received a Variance application from Mariah Vangness, the property owner at 21333 Durant Street NE, to obtain a variance to the paving standards as required in Sec. 10, Sub. 15, B (2), the driveway access and standards.

Berg noted a building permit for the construction of a new home on the applicant's property was issued in October 2023 and the Certificate of Occupancy was issued in February 2024.

Berg indicated Durant Street NE is also Anoka County Road 15 which requires the applicant's right-of-way access permit be applied for and issued by Anoka County Highway Department (ACHD).

Berg stated due to wetland impacts on the property the driveway and access required Anoka County Board of Soil and Water, as well as City Engineer approval. The access location, driveway base elevations, and fill material required a City grading plan.

Berg stated the applicant has indicated that, "this variance request is not for financial reasons and that not one residential driveway on Durant Street is paved for the first 75 feet. Another reason is that it is off of a County road, and this is not a requirement of Anoka County, solely the City of East Bethel requirements."

Berg stated as was noted by the applicant, Durant Street NE is also Anoka County Road 15 and, therefore, the applicant's right-of-way access permit was issued by the ACHD. Joe MacPherson, Anoka County Engineer, was contacted in an effort to determine the County's requirements. MacPherson indicated that Anoka County does not have the paving requirement; however, the individual cities ordinances can require improvement and have been applied throughout the County.

Berg explained an inventory was made of each of East Bethel's neighboring cities/townships to determine how each jurisdiction applies the ordinances to County highways and roads that run through their jurisdictions, which he reviewed.

Berg stated to hear requests for variances from the literal provisions of the Ordinance in instances where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. The consideration of a variance requires the consideration of a three-factor test for practical difficulties. Economic considerations alone do not constitute practical difficulties.

With respect to the test of reasonableness, Berg stated in this case the paving, as required by Ordinance, would not deny the landowner reasonable use of the property.

With respect to the test that the landowner's problem was due to circumstances unique to the property and not caused by the landowner, in this case Berg stated the property, although partially classified as a FEMA flood plain with multiple ditches throughout the parcel, is not more unique than many of the properties in the area.

With respect that a variance would not alter the essential character of the neighborhood, Berg stated in this case there are 47 parcels with driveways on Durance Street NE between Wild Rice Drive and 229th Avenue NE of which 31 are not paved.

Berg noted paving requirements for driveways in all residential zoning districts has been in East Bethel City Code since 2008. An alteration was made in 2010, at the request of the City Council, to delay the paving requirement by (1) one year for all new construction accesses, as well as limiting the paving requirement to those accesses/ driveways adjoining a paved right-of-way.

Berg stated the City cannot enforce ex post facto laws or ordinances. Meaning the City cannot obligate any property owner of a parcel, with a driveway constructed prior to 2008 meet the driveway access paving standard.

Berg stated on April 23, 2024, the Planning Commission meeting held a Public Hearing. After a discussion and hearing from the applicant's husband, the Planning Commission, by a 6-0 vote, recommended that the City Council deny the variance request to the paving standards as required in Sec. 10, Sub.15 (B2), the driveway access and standards.

Berg requested the City Council review the application and Planning Commission's recommendation and approve or deny the variance request to the paving standards as required in Sec. 10, Sub.15, B (2) the driveway access and standards.

Lewis asked when it was set to the property line, he was basically saying it had to be paved in the right-of-way. Berg responded whether it was a County right-of-way or the City right-of-way, and it was required to be paved, which was typically by definition called the apron of a driveway.

Lewis noted he was surprised by the Planning Commission's vote and he was expecting a split decision. He indicated it seemed excessively long given what the neighboring communities do. He stated there was no logical quantitative reason why it had to be 75 feet instead of 30 or 40 feet and it appeared to be arbitrary.

Miller stated the application clearly stated driveways located on an improved street and road required a bituminous or concrete driveway. And the definition of an improved road was a road or the curb gutter which had a surface of concrete or asphalt. He pointed out the City's Ordinance basically was telling residents that if they looked at the road it was on, it was not what was classified as and they were classifying it as something different. He noted Berg's email also stated that in all residential zoning districts, driveways located on improved streets required a business or concrete driveway extending from the street 75 feet to the garage apron, whichever is less. He believed this was a problem because in this case, the County also gave out or had a form that said driveway access for all County roads. He believed this caused confusion for the residents. He asked how many driveways were paved out of the 47. Berg responded he believed there were 11 driveways that were not paved.

Miller believed that would fall into the third factor that it would not alter the essential character of the neighborhood. He stated they needed to take a hard look at the City's form and get the terms correct. Berg stated he did not write the Ordinance, but it was his interpretation that if someone lived on an unimproved street, they did not have to pave to match the surface.

Miller stated the form should be changed to match the definitions. Berg responded the Ordinance was the Ordinance and the form was the form, and the Ordinance was the law, but he acknowledged the form might need to be corrected. However, he pointed out that the form was not the law and it was just a form. He stated he would look into this though. He pointed out that they would not be in this scenario on a County road or County highway as they would not be filling out the City's access form. Rather, they would be filling out the County's access form and the County would be the entity approving this.

Miller asked if the resident had been sent something after the fact saying they needed to do this. Berg responded that was part of the approval process for their home to be given a Certificate of Occupancy as a building requirement for occupancy of a residence from the City. He noted he did not write any of these things, and he was just trying to enforce what the City had on the books.

Miller stated the problem in his mind was that when the residents did something, the City needed to stand behind the residents and the City should not be nickel and diming them along the way.

Lewis agreed it needed to be consistent.

DeRoche asked when the residents come in to get the building permit for the house, were they informed that when they put in the driveway, that the County had a set of rules and the City had a set of rules. Berg explained the process and noted once it was determined this development would be on a County road or County Highway, the resident would be referred to the County for a right-of-way

access. He indicated once the resident received the County's right-of-way access to the property, then they were in the City's jurisdiction in terms of driveway depth, etc.

DeRoche stated his problem was that it appeared the residents had not been given all of the information they needed to get both County and City approvals.

Berg explained where the Ordinance probably came from as the State changed standards for stormwater runoff, it required the cities to match the State. He believed the City had probably adopted some of that language. DeRoche noted the residents should have been directed to the County first. He indicated he did not know what the answer was for this.

Smith agreed with DeRoche's concerns and comments. He noted the County approved this and asked what was their measurement. He also asked if it was based on the center of the road of 33 feet and then the homeowner was supposed to put in their concrete. Berg noted the County's right-of-way changes based on the speed of the road, so every one of them is a little different. Look stated County rights-of-way was not hard and fast.

Lewis believed there was an inconsistency here and that was what created the problem. Look stated Council could schedule this for a work session to craft an Ordinance change if they wanted.

Lewis noted he would be in favor of having a work meeting with respect to this. He believed the inconsistencies were between what the City was requiring and what the County was requiring and there should not be any inconsistencies.

Berg stated the other issue was that the City has a 60-day window to respond to the variance, so Council had to make a decision on the variance tonight. He indicated the resident has an escrow established and they have one year from February to pave the driveway. He noted if Council decided to make a decision on the variance tonight denying it, the resident still had until February to get the paving done. He stated if Council chose to amend the Ordinance to the right-of-way apron, they could do that and then between now and February, the resident could do whatever the apron needed to be.

DeRoche stated the City had 120 days to approve or deny the variance – 60 days plus an extension if approved. Larson stated the Council could extend this, but it appeared this was set to be an either/or with the Council granting the variance with conditions. He believed there were a lot of dynamics going on, but he did think the Council had more options rather than just yea or nay. He pointed out they could do this with conditions, or they could hear from the property owners, or they could revisit this at a Council Work Session. He stated the applicant was at this meeting and they could also indicate that they will waive the 60-day notice and allow for another 60-days also.

Mariah Vangsness, applicant, explained the process she and her husband followed after they spoke with Berg including talking to the Anoka County Highway Department to find out what the requirements were. She believed there was a lack of communication. She indicated they did not know after they had received the County's permission that they still needed to come back to the City for anything other than obtaining the building permit. She believed this was unclear. She noted it was only after they started working on their driveway that they were told to stop and that they needed City approval also. She summarized the struggles they had with their construction including wetland delineation surveys needing to be done after they had already started on their construction and having to move where they were proposing to put the driveway multiple times. Berg pointed out that the City did not control what the requirements were in a wetland and that was done by a technical evaluation panel. He stated the City has been given the task of regulating State Statute.

Ms. Vangsness stated it seemed contradictory to be given a form by the City and then told to go to the County versus the City providing information as to what they needed to do. She asked how were new residents that were building in the City supposed to know where to begin with their project if the City could not even direct them on where to start to get their driveway started. She believed the form was extremely unclear.

Ms. Vangsness stated she would never build a home again and it was extremely frustrating being delayed. She noted interest rates have spiked and it probably cost them \$15,000 just to get to the point of constructing the driveway. Look stated in reviewing this project, it was probably one of the more difficult projects to have someone undertake and the fact that they experienced frustration was not uncommon when dealing with wetlands, especially in the State of Minnesota. He noted there was County involvement and the County requirements, City involvement and the City's requirements, and also Watershed involvement with watershed requirements that nobody knows they have.

Lewis stated this was very painful and expensive for them.

Look believed the Planning Commission simply looked at the Ordinance, which was cut and dry, so they had to deny it. He suggested the Council either deny the variance or approve the variance with conditions and then come back to a Work Session to get the details ironed out.

DeRoche asked if they could approve the variance now and do the conditions after the fact. Larson responded the Council would have to grant the variance with conditions. He indicated the other option was that the Council did not have to make a decision tonight and it could be postponed which would trigger the additional 60-day review.

Smith asked when they applied for the City permit and Berg referred them to the County, did Berg mention what the City requirements for the driveway were. Ms. Vangsness responded no.

Smith believed a lot of this might have been avoided if the Vangsness' had received that information up front, but they were basically blindsided because they did not get the information. Berg noted he was a City Planner and that time and not the Community Development Director who did the oversight of the department.

Smith stated they had a resident who spent a lot of money because they did not receive information they should have from the City. Berg pointed out that in the application for new residential construction, there was an entire section on driveways.

DeRoche believed the problem was that once the resident received permission from the County, they thought everything had been done. Ms. Vangsness responded that was their impression also and they did not know they had to go back to the City for the driveway.

Look stated there was a difference between right of access and driveway standard. He indicated the County on a County road had to grant right of access, and driveway standards was something that the City established. He believed there was confusion based on the understanding how these things played out and worked. He stated staff should look into the City's form though.

Lewis stated that the bottom line is that this "story is sickening," and the resident paid the price of this. He indicated they needed to have consistency and clarity between the City and the County so people did not get dragged into this type of situation again.

Miller asked how much did they have in escrow right now for the driveway. Ms. Vangsness responded she believed they had another escrow as they were only issued a temporary Certificate of Occupancy. She indicated they had run into some problems with only having a temporary Certificate of Occupancy

because mortgage companies liked someone to have a Certificate of Occupancy. She stated they had a significant amount of funds tied up in escrow.

Berg stated the City Ordinance required that any landscaping be established for one full growing season and if that was not possible, then the resident had to establish an escrow to cover the landscaping should it not survive the one full growing season. He indicated the Vangsness' had an escrow for the landscaping and also an escrow for the driveway.

DeRoche asked how would the City know anything with respect to the landscaping. Berg responded he did not write the Ordinance.

Smith stated if the City had on the permit application information about the driveway, wouldn't this need to be approved by the City's building official. Look responded stated he would need to look at the permit, but it had been approved.

Smith indicated it was his opinion that the driveway situation had not been explained. Ms. Vangsness stated the driveway was signed off on and approved, but the rural residential/access permit was unclear on that.

Smith stated it was his opinion that the Vangsness' had received a Certificate of Occupancy and this came up after the fact, which he did not think was right.

Mundle pointed out the problem with approving this with conditions was if they make a mistake on the conditions, they could go back, but if the variance were denied, they could sit down at another meeting and "flush all that out," and then come back and revisit the variance.

Larson recommended if the Council denies the variance, they will need to affirmatively agree to revisit the variance.

Berg stated this was only the driveway apron and the applicant still had until February to pave to the standard that the City currently had, but the standard could change within the year.

Miller believed they needed to approve the variance. He stated they were advocating for homeowner's rights and they would be reaffirming the commitment to promoting responsible development. He noted right now they had a resident who had a lot of money stuck into this and they've been forced to jump through hoops, which took way longer and more money than originally planned. He believed they needed to say enough was enough. He noted there were many residents on this road who did not have paved driveways, and this should be one of those driveways.

DeRoche stated he did not have a problem approving the variance, but if it became a problem with dirt and other things ending up on the road which would make for a dangerous situation, the resident would have to clean it up.

Larson noted the Council could put in a condition that should the use of the driveway cause problems with the County road as far as debris, etc., then the City could impose a reasonable pavement from the County road on back to the resident as far as the length.

Lewis asked what other cities around them did. He stated he was "just nauseated by this," and made him "angry as hell." He stated he had previously built a home in North Carolina on a field and stream and he never had to deal with any of this "crap." Larson responded Ham Lake had a 30-foot requirement.

Lewis stated if they want people to live in the City and build homes, this was making it impossible for them to do that. He noted he had purchased an existing home in the City and based on what he had heard tonight, he would never build on a wetland in the City. He stated they needed to fix the 75-foot

requirement. Larson pointed out that they had a condition that should something become a hazard on the County Road, then they would need to pave 25 to 30 feet up to the County road.

Lewis stated the chances of that ever being an issue was zero. Larson noted it depended on how they used the property and drove on it.

DeRoche stated I'll make a motion to approve Resolution No. 2024-36, A Resolution Approving a Variance without Paving, unless it becomes a nuisance, and the City reserves the right to require the applicant to pave into the property line. 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 B Economic Development Authority

None.

7.0 C Park Commission

None.

8.0 Department Reports

8.0 A Community Development

8.0 A.1 Section 28. – Architectural Standards (Ordinance Revision)

Berg stated at the April 3, 2023 City Council meeting, Councilmembers Smith and Miller recommended amendments to various City Codes which were contained in the Zoning Code. Council directed staff to route the amendments to the Planning Commission for a Public Hearing and recommendation. At the April 25, 2023 meeting the Planning Commission discussed these after holding a Public Hearing.

Berg explained due to the mixed levels of support and limited amount of time for discussion of the proposed revisions, staff thought it was in the best interest to bring two of the Zoning Codes amendments back for further discussion and formal recommendation at the May 23, 2023 Planning Commission meeting. A formal recommendation on Section 24. Exterior Storage was presented and passed at the June 26th, 2023 City Council meeting.

Berg indicated Section 28. Architectural Standards had numerous revisions. City staff has compiled the recommendations and created a third draft revision for review on December 27, 2023. At that time it was the Council's request to allow Councilmember Miller review the revisions.

Berg stated attachment 1 to the Council packet was being provided for Council review and discussion at the request of Councilmember Miller.

Berg recommended the City Council conduct further review and discussion of the proposed amendments and make a formal recommendation.

Miller reviewed the history of this request and summarized the reasons for the changes including to foster economic growth and attract businesses in East Bethel. He noted what was being proposed did not have significant changes, but the change would allow current businesses in the City to expand their operations using steel building construction as outer walls and permit new businesses to build new structures using steel construction.

Miller believed this change would make it more affordable for businesses in the City to expand or be able to come into the City which would ultimately create a business-friendly environment that would encourage growth and prosperity.

Miller noted businesses would enjoy significant cost savings compared to traditional brick and mortar construction and this would enable businesses to invest more in their operations and growth which would lead to an increase in economic activity in the City.

Miller stated this change would allow businesses to create beautiful new structures and would enhance the visual appeal of the City and attract more customers or investors. He noted the City wanted to encourage businesses to expand using steel construction. He stated this would also create more job opportunities for residents which would reduce the need for commuting to neighboring cities for work as well as offering businesses the advantage of cost-effective construction options.

Miller indicated the City would become a more attractive location for entrepreneurs and business owners, while helping to retain current businesses which would boost the local economy and create a vibrant business community by simplifying the building process and reducing costs.

Miller believed the proposed change would send a clear message that the City was open for businesses and willing to support the growth and success of entrepreneurs within the City as well as making it more affordable for businesses to establish themselves or to expand.

Miller stated the City wanted to foster a business-friendly environment that would benefit both the local community and the economy at large. He believed this initiative had potential and could transform East Bethel into a thriving hub for more innovative as well as setting the stage for long-term substantial growth and prosperity.

Miller stated he wanted the City to embrace this change and unlock its full potential for the City as a premier destination for businesses. He noted what he was talking about was allowing post frame construction with painted steel sides. He requested the Council take a hard look at this and do it for the local businesses in the City.

Smith agreed they wanted to attract businesses to the City right now, he believed this was a great change, and would encourage businesses owners to come to East Bethel.

Mundle questioned B and C on the attachment. He asked why was this circled and crossed out. Miller explained they wanted paneled and they wanted painted steel. He noted they did not want anything that was unfinished. He indicated some of the language still needed to be corrected as they went along.

Mundle asked if this would not be allowed in the sewer and water district. Miller responded it would not be allowed in the brick-and-mortar district.

Mundle asked if the City had a brick-and-mortar district. Berg responded there was nothing in the Zoning Code that said brick and mortar. He noted the City had MUSA depending on who they want to talk to.

Miller stated this would not be allowed in the MUSA District. Mundle requested a clean version be made of Attachment 1 and forwarded to the Council for review. He also requested on the clean version that there be language that stated the sewer/water district would be excluded.

Look asked if they wanted to discuss this at the next Council Work Meeting. Lewis stated he believed this could be approved at the Council meeting once things got cleaned up.

Mundle recommended once a clean version was circulated, this could be put on a Work Meeting agenda as well as having it on the Council meeting agenda if there were no major questions, changes, etc. to be made. He indicated they could always strike it from the Council Meeting if it was not ready to be approved/denied.

Informational only.**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

Look presented updates on the Fire Department evaluation, the Legislative session bills, and the Whispering Aspens additional phases and their water capacity.

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

None.

9.0 B Council Reports

Lewis stated he had spoken to the City Administrator about the next Council Meeting being on May 29 due to Memorial Day weekend. He also spoke to him about the *East Bethel Bulletin* and getting that on a set schedule, and about Blue Ribbon. With respect to Blue Ribbon, Lewis stated he wanted to see what was being agreed to on the City's behalf.

Berg stated the Blue Ribbon was waiting to book bands due to the problems they experienced last year regarding not having a permit and any of the bands they are wanting this year are requesting to see the permit in advance.

Look suggested he send the Councilmembers and Mayor a copy of the application. He requested the Councilmembers not discuss it among themselves, but to give him their concerns and staff will compile those concerns and "weave" them into the application as much as possible.

DeRoche requested an update on the Ice Arena. Look responded two applicants had responded to the RFP with one being Gibson and the other one being from out of state. He indicated Gibson had a 27 to 40 percent increase and the out-of-state applicant had a 100 percent increase. He indicated there was also a Public Works employee who was interested in running this. He noted this employee's daughter played hockey there and he had a vested interest in operating the facility. He indicated the Hockey Association was very interested in this option. Look stated the question would be if staff could operate it for less than the two applicants. He indicated if staff operated it, the user fees would pay the staff person dedicated to operating it, which would be an offset of the general fund in that amount. He recommended staff operate the Ice Arena on a short-term basis until they could find an operator that was suitable. However, he acknowledged that short-term might turn into long-term.

Smith asked if there was a concern with a staff person running it. Look responded they had an employee now who did a lot of the plowing and he believed they could split some time and do this. He noted that under the old contract, there was no incentive to sell ice time and the belief is that

they could sell more ice time, which would increase the revenue for the facility. He acknowledged this would increase staff work and Ayshford would be taking on more responsibility. He indicated there would also be some financial impact, but he believed customer service under the old contract was not there and a lot of complaints had been generated. He believed that by bringing this in-house, it would be more customer-oriented than what they previously had.

DeRoche asked if the City had reached out to the School District, the Hockey Association, or the parents on this. He believed they needed to reach out and talk to other people. Look stated the Council had a fiduciary responsibility to make sure that every single dollar that they asked from the residents was spent appropriately.

Lewis stated that contrary to what was represented, he had never said that he did not believe such a business should exist in East Bethel – “that was an outright lie.” However, he did not see the sense in a municipal corporation operating a for-profit business, which should be a for-profit business. He noted he found it hard to believe that they could not find somebody who could see a business opportunity in the Ice Arena at the right price where they could operate it with the proper incentive being to expand it for their own sake. He believed they would make more money doing that if they rent the facility to someone. He stated he never said to close the Ice Arena down and his point was that the incentives were out of line with a municipality and it was a burden. He indicated the goal was to find the right match of interest and opportunity. He did not believe they would get there using a City employee because there would be no incentives.

Lewis believed for the long-term it was necessary to find the right party. He recommended this be more broadly advertised. He noted he found it hard to believe the nobody has this as an opportunity. He stated he did not see this as the proper solution. He indicated he believed the facility should be there and he believed there was a demand for ice time, and he wanted to find someone to operate it who was not a City employee taking on additional work. He stated Ayshford was maxed out and he had an enormous amount of responsibilities and he did not want to put any more responsibility on Ayshford.

Look stated he believed Ayshford saw the writing on the wall and he was willing to step up and take this on short-term. Lewis responded that Ayshford was always willing to step up.

Lewis stated he had not seen this being advertised. He asked if this had been “packed” the correct way. Berg noted one thing the Council wanted to consider was the long-term lease on the cell tower that was on the property and who would take over the revenue coming from the cell phone tower.

Lewis believed there had to be somebody who saw this as an opportunity.

Mundle recommended they continue this discussion under an agenda item at the future meeting to talk over possibilities.

Lewis asked if this needed to be done by an RFP. He also asked if they could hire a consultant to market this like commercial properties were marketed.

10.0 Adjourn

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

Meeting adjourned at 9:28 PM.

Submitted by:
Kathy Altman

TimeSaver Off Site Secretarial, Inc.