

EAST BETHEL CITY COUNCIL MEETING

JULY 8, 2024

The East Bethel City Council met on July 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
Christina Benson, City Attorney
Ben Uden, Fire Inspector
Aaron Berg, Community Development Director

1.0 Call to Order

The July 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 Public Hearing: Ordinance 2024-02, Updating Text for Minnesota State Fire Code Adoption

Fire Inspector Uden explained that after they had conferred with the State Fire Marshal's office about a different issue, they noted that the language in the City's current ordinance was outdated in relation to the Fire Code and recommended an update. He stated that the Fire Department staff have reviewed those recommendations and were recommending changes to the City Ordinance relating to Chapter 30, Fire Prevention and Protection, to correct the outdated text and keep contemporary with Minnesota Stats §299F.011. He referenced the suggested revisions to the ordinance as included in the meeting packet and noted that the State Fire Marshal had just gotten back to them with comments on the suggested revisions which staff had incorporated earlier today. He explained that he agreed with all the recommendations made by the State Fire Marshal's office.

Lewis opened the public hearing at 7:06 p.m.

No comments received.

Lewis closed the public hearing at 7:06 p.m.

DeRoche stated I'll make a motion to adopt Ordinance 2024-02, Updating Text for Minnesota State Fire Code Adoption. Smith stated I'll second. Lewis asked any discussion? To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

5.0 Public Forum

James Linder, East Tri Oak Circle, noted that 7 weeks ago he had made a request to the City in order to get access to view some public records. He stated that 4 weeks ago, City Administrator Look said that this request was not clear, but nobody had made any effort to ask him for a clarification, so he had sent a copy of the request to the Council. He explained that 2 weeks ago at the last City Council meeting, Mr. Look had said that his request was almost ready and the City would let him know when it was available. He stated that he asked about it 1 week ago and received no response so he was still

waiting to view the public records that he had requested 7 weeks ago. He noted that Mr. Look had recently accused him of violating a City Ordinance by stating that he had a second garage of 232 sq. ft. on his property. He explained that he had attempted to correct Mr. Look's mistake by sharing that the second garage was really a garden shed and was only 142 sq. ft. in size. He stated that instead of admitting his error, Mr. Look doubled down on the accusation of it being 232 sq. ft. He explained that he had used a Craftsman measuring tape and the measurement at the foundation was 14.58 x 9.75 or 142.155 sq. ft. He stated that he sent a second e-mail to the City that outlined the actual size of the structure and nobody had, to this point, admitted that a mistake had been made.

Lewis asked if Mr. Linder had checked his e-mail this afternoon. Mr. Linder confirmed that he had checked his e-mail just prior to coming to the meeting.

Lewis stated that he sees that there was an e-mail from Administrative Coordinator Carrie Frost who works closely with Mr. Look, which has a time stamp of 4:04 p.m. He noted that he was not sure if that was when it was sent or when he received it. He read aloud from the e-mail which stated 'we have processed your inquiry for public records and there is a significant amount of data/documents for review of 500+ pages'. He stated that the e-mail goes on to say that Mr. Linder should coordinate with Ms. Frost on how to get this information uploaded onto something like a thumb drive because they do not want to print off that many pages.

Mr. Linder explained that his original request was just to be able to come into the City offices and view the information and had not intended for anyone on staff to put in a lot of effort to sort through the information. He noted that he had felt it would be easier for everybody if he could just view it.

Lewis stated he felt that was what Ms. Frost was saying in the e-mail and that Mr. Linder could come into City Hall and view the information.

Mr. Linder raised the subject of extra gazebos on the neighboring property.

Lewis stated that he did not want to go into all of that again and encouraged Mr. Linder to look at the information he had requested. He stated that this was about the fifth time that Mr. Linder wanted the Council to hear this same information, which he did not feel was right.

Mr. Linder noted the excuse that the City has been giving him was that his neighbor's property is larger than his.

Lewis clarified that issue would not be resolved here or now. He reiterated that the Council has heard about this issue numerous times and understood that there is a disagreement about the information. He asked Mr. Linder to take the next step and look at the information that City staff had spent a lot of time putting together for him and explained that this situation had begun to aggravate him.

Mr. Linder agreed that he has also been aggravated by this situation.

Lewis explained that the City has a staff of 22 people and there are 12,000 people in the City and they need to be assiduous in how they manage their time.

Linda Harvey asked to address the Council and stated she felt that the facts of the measurements are wrong that were submitted by Mr. Look, which is what Mr. Linder has been trying to communicate.

Look clarified that the City does not have access to go onto their property and measure any sort of structure, but uses a GIS service from the County where they can look down and take measurements. He stated that the roof of that structure is 232 sq. ft. and that is what applies to impervious surface. He noted that the question that has been raised is why Mr. Linder cannot have a pergola like his neighbor and explained that the reason is because if you are at the maximum allowance for impervious surface, which is roofing, then he cannot have an additional structure that would increase the impervious surface amount. He explained that was the context that was missing from the conversation.

Look stated that compiling the 500+ pages of information that was requested by Mr. Linder had taken multiple hours of staff time because some information had to be redacted as it included personal information. He explained that staff cannot respond instantly to every single public data request that is received because they still have other City business that needs to be taken care of before they can respond to those types of requests. He stated that based on the size of the information in this instance, he believed that the City had responded in a reasonable time frame. He recommended that Mr. Linder schedule an appointment with City staff for a time to come in and view the materials. He explained that they would provide him a room for him to be able to review the information and noted that if he wants copies of any of the information, the City would have to charge a fee for that action.

Lewis stated that he was done discussing this situation and apologized for getting angry about the situation.

Mr. Linder thanked the Council for their time and noted that he was hopeful that there was not a lot of redaction done in the records.

6.0 Consent Agenda

Item A: Approve Bills

Item B: Approve Meeting Minutes June 24, 2024 City Council Work Meeting

Item C: Approve Meeting Minutes, June 24, 2024 City Council Meeting

Item D: Resolution 2024-47, Declaring Surplus Property – Recycling Center Trailer

Item E: Purchase of Equipment – Recycle Center Trailer

Item F: Resolution 2024-46, Appointing Election Judges for 2024 State Primary Election

Mundle stated I'll make a motion to approve Consent Agenda as amended. DeRoche stated I'll second. Lewis asked any discussion? Lewis asked about the item under Approve Bills related to the East Bethel Fire Department – Conferences and Meetings – Fire Certification Board and asked for information about what the certification was for. Look stated that those costs are typically reimbursed to the City by the State and explained that he did not know what this specific item was for, but can get that information for the Council. 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 : 23558 Ulysses Street NE – Wetland Setback

Berg presented the request of Everything Outdoors, LLC, on behalf of Dan Graff, for a variance to reduce the Shoreland Overlay setback standard for the placement of an in-ground pool. This property is located in an R-2 Single Family and Townhome Residential Zoning District, in the West Side Estates Subdivision and in the Coopers Lake - Shoreland Overlay.

Berg referenced Zoning Appendix A. General Regulations – Section 57. Shoreland Overlay (SL) District, which classifies wetlands into multiple categories and are consistent with the criteria found in Minnesota Regulations, part 6120.3300, and the Protected Waters Inventory Map for Anoka County, Minnesota. Additionally, each classification has a required setback from the Ordinary High Water Level (OHWL). Coopers Lake has been classified as a Natural Environment with a 150-foot structural setback.

Berg explained the residence was constructed in 2006 and placed 161.22 feet from the OHWL, as identified on a Certificate of Survey dated May 5, 2004. According to survey, there is 87.60 feet of distance between the rear of the house and the rear lot line. Elevations identified on the survey show that there is a 12-foot elevation change (steep drop off) between the rear lot line and the edge of the OHWL. This area between the rear lot line and Coopers Lake is owned by the City of East Bethel and included in the John E. Anderson Park.

Berg stated the property owners have proposed placing an in ground pool with concrete apron in the rear yard within the 150-foot Shoreland Overlay setback. The required rear yard setback in an R2 Zoning District, without the shoreland overlay component, is 10 feet. The proposed placement is 21 feet from the rear property line; however, it is approximately 94 feet from the nearest point of the identified OHWL.

Berg reviewed Section 57 of the Shoreland Overlay (SL) District. Sub. 6. Administration relating to compliance, notification to the Department of Natural Resources (DNR), and considerations to grant a variance.

Berg stated a public hearing notice and email copy was sent to the North Metro representative of the MN DNR. On June 26, 2024, City Staff received a call from Wes Saunders-Pearce, North Metro Area Hydrologist, who after reviewing the information supports the Planning Commission's recommendation of denial as this variance request is a significant reduction in setback. Additionally, the MN DNR generally supports the ordinance restrictions in local Shoreland Overlay code.

Berg presented Sub. 8 of the Shoreland Overlay District standards for placement, design, and height of structures as well as Section 10, the general development regulations for permanent and portable swimming pools.

Berg explained the consideration of a variance requires the Planning Commission to consider a three-factor test for practical difficulties, as follows:

- The first factor, a test of reasonableness, means that the landowner would like to use the property in a practical way but cannot do so under the rules of the ordinance. It does not mean that the land cannot be put to any reasonable use whatsoever without the variance. For example, if the variance application is for a building too close to a lot line or does not meet the required setback, the focus of the first factor is whether the request to place a building there is reasonable.

In this case:

- *A swimming pool is identified as an allowable Accessory Use in an R2 Zoning District.*
- *The variance request to place an in ground pool in a Shoreland Overlay Setback may not be reasonable.*
- The second factor is that the landowner's problem is due to circumstances unique to the property and not caused by the landowner. The uniqueness generally relates to the physical characteristics of the particular piece of property, that is, to the land and not personal characteristics or preferences of the landowner. When considering the variance for a building to encroach or intrude into a setback, the focus of this factor is whether there is anything physically unique

about the particular piece of property, such as sloping topography or other natural features like wetlands or trees.

In this case:

- *This property is located in the Coopers Lake - Shoreland Overlay with specific setback requirements and the primary residence was constructed within 10 feet of the setback requirements from the OHWL.*
- *The primary residence was constructed over 475 feet from the front lot line, 17 feet from the North property line and 23 feet from the South property line. This placement limits the buildable area available on the side and rear yard for any accessory construction.*
- *There are terraced elevations throughout the property, both front and rear yard.*
- *The Subsurface Sewage Treatment System (SSTS) and Well are located in front of the house.*
- The third factor is that a variance would not alter the essential character of the neighborhood. This factor is used to consider whether the resulting structure will be out of scale, out of place, or otherwise inconsistent with the surrounding area. For example, when thinking about the variance for an encroachment into a setback, the focus is how the particular building will look closer to a lot line and if that fits in with the character of the area.

In this case:

- *The proposed location of the in ground pool is the rear yard and not visible from the roadway.*
- *The primary residence was constructed over 475 feet from the front lot line.*
- *Standing tree growth along the property lines screen the rear yard from neighboring properties.*
- *The degree of the requested variance is significant (58% of the Shoreland Overlay Setback) and would be a radical departure from the scheme of the City's land use controls.*

Berg stated that on June 25, 2024, the Planning Commission held a Public Hearing at 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 denial of the variance request. Berg stated the City Council should review the request, consider the Planning Commission's formal recommendation and approve or deny the variance request to the standard Shoreland Overlay setback from 150 feet to 94 feet, for the placement of an in ground pool at 23558 Ulysses Street NE., as presented in Resolution 2024-45.

Berg noted that he had supplied the Council with an additional site plan drawing that was provided to him earlier today by the contractor that shows a bit more specific information on the potential pool location. He explained that it was unclear to him, based on the drawing, whether this matches the certificate of survey because this is not an official document that was done by a survey company. He referenced the survey that had been completed when the property was constructed that shows from the rear corner of the house to the OHWL is about 161.22 feet and from the rear of the house to the property line is about 87.60 feet. He explained that the contractor had also provided additional photos that were not provided at the time of the application that shows where the potential pool area is staked out.

DeRoche stated I'll make a motion to discuss the variance application at 23558 Ulysses Street NE. Lewis stated I'll second. Motion passed by general consensus. NOTE TO STAFF: no vote taken

DeRoche asked if Mr. Berg had stated that this was 10 feet from the OHWL. Berg clarified that the house was placed 161.22 feet from the nearest OHWL and the setback requirement in the Shoreland Overlay District is 150 feet.

DeRoche stated that he also lives in a Shoreland Overlay District and thought that anything from 1,000 feet from the OHWL was considered to be within the Shoreland Overlay District. He asked how close the pool would be to the lake. Berg stated that the most recent drawing indicates that it would be 125 feet from the edge of the pool, not counting the concrete apron. He noted that the City's ordinance does not define an in-ground or above ground pool as an accessory structure, but in his opinion, an in-ground pool would be considered an accessory structure, but reiterated that was not how it was depicted in the ordinance.

DeRoche asked why they had not considered placing the pool in the front yard area. Berg stated that would be something that only the homeowner could answer, but explained that there would be room in the front yard. He noted that the applicant and the contractor were both present if the Council would like to ask them any questions.

Dan Graff, property owner, explained that he was just trying to get a decent pool installed for his 11 grandchildren to use rather than having an above ground pool. He stated that the property has a 12-foot increase from the lake to his land and the pool would be 125 feet away from the OHWL. He stated that they could probably push it a little closer to the deck so it would end up about 135 feet away from the OHWL and would only need a variance of 15 feet. He felt that there were some misconceptions that took place among the Planning Commission because they thought the people from the park may be able to see the pool, but assured the Council that would not be possible. He stated that they have notified all their neighbors and none of them had a problem with what they are proposing. He stated he believed that the OHWL would never reach where the pool would be located. He explained that he cannot place the pool in the front yard because his septic system is on the south side and the other side of the yard has a neighbor that is close. He stated that it would be very difficult to squeeze the pool in and also felt it would look terrible in that location.

DeRoche asked for a more detailed explanation of the location of the septic system. Mr. Graff pointed it out on the overhead screen and explained that he also has the secondary septic site located in the area.

Berg reminded the Council that the pictures and drawing he was showing on the projector had just been received earlier that day.

Lewis asked if Coopers Lake had the beaver dams. Berg stated that it was not Coopers Lake and explained that Mayor Lewis was referring to a different lake.

DeRoche stated that he can remember an application from about 13 years ago where someone wanted to be able to put a dock out on the lake, which was denied.

Mr. Graff confirmed that docks are not allowed on Coopers Lake unless they were grandfathered in. He stated that this pool would not interfere with any of the lake quality. He noted that they previously owned property on Forest Lake where they just needed to have a 50-foot setback.

Berg explained that every classification of water can be different and gave the example of Coon Lake having a 75-foot setback and reminded the Council that this body of water was classified with a 150-foot setback. He displayed some modeling that included use of a wetland overlay map and the 100 year flood plan map and explained that this was probably why the OHWL was an average and not defined by a specific number.

Lewis asked about the rationale from the Planning Commission for their recommendation of denial.

DeRoche stated that he thought they were just waiting for the DNR comments on the setback. He asked if all of this would go away if it were to be an above ground pool. Berg agreed that this would

not be an issue if the pool was above ground which his office would essentially consider to be temporary and not a 'structure'.

Lewis stated that City Attorney Larson has stated in the past, that to grant a variance there has to be the three-factor test and they have to be able to detail the 'why' behind their decision. He noted that was why he had asked the question earlier about whether the Planning Commission had given any particular reasons for their recommendation of denial. Berg stated that there was discussion from a few of the Commissioners about whether this may set precedent. He explained that variances are set up with the three factor test so that each case is examined based on their own merits and specific situation.

Mr. Graff noted that there are not that many people who are actually on the lake nor are there many people that will put in an inground pool.

Lewis shared a hypothetical situation where Mr. Graff would sell his home and the next owners were a young couple with rowdy friends, which meant that the pool would become a big party place. He asked how Mr. Graff's neighbors would feel about this scenario.

Mr. Graff stated it was very difficult to answer that kind of hypothetical question.

Smith asked if Mr. Graff had considered installing an above ground pool. Mr. Graff stated that he thinks that above ground pools look tacky, cannot have a diving board, and are pretty much one depth for the entire pool.

Jeromiej Sommers, Everything Outdoors, stated that it also may be possible that an above ground pool would be visible from the park.

Miller stated that the shoreline seems to be going away and asked if there would be any possibility of offsetting the pool and moving it slightly down so it would meet the City standards.

Mr. Sommers explained that moving the pool location a bit would gain some distance, but would be right up against the trees.

Mundle stated that in the write up there is a variance request of approximately 94 feet versus the required 150 feet, but there was a statement made tonight that they could move the pool closer to the deck so it would be closer to 135 feet rather than 150 feet, which would only require a 15-foot variance. He stated that he was not sure that the Council had all the current information in front of them right now.

Berg explained that when the application came in, he had contacted the contractor after he had looked at the initial drawings. Berg stated he had communicated that he was not sure about the distances and measurements that were indicated on the drawings and what was included in the write up within the packet was essentially his best guess based on those the materials. He reiterated that the drawing shown tonight was what had been submitted earlier today.

Mundle clarified that he was not trying to blame staff for this, but just to communicate that he did not feel that the Council had enough information on this related to the exact site placement on how they may be able to work together to make something work for an inground pool. He stated that the information that the Council had received showed that the pool would be 65 feet into the Shoreland Overlay setback area and noted that it now appears that the request was actually for 15 feet, which he felt may be a bit easier for the City to work with than the original request for 65 feet.

Lewis asked which figures were accurate. Mr. Sommers stated that the 125 feet distance was accurate and explained that they had moved the pool in a bit closer to the house.

Lewis asked if they had taken the apron off on that side. Mr. Sommers stated that they had left the apron on.

Berg stated that he believes the only way to get exact distances would be to have a survey company go out and create a survey that would show the City the exact distances based on where they were currently planning to install the pool.

Mundle stated that he was not sure that the Council needed that but did feel they needed competent measurements and site placing. He stated the applicant had made the claim that they would probably only need a 15-foot variance, and explained that the Council needs to see those figures and that information. He asked if there would be any issues for the applicant if the Council tabled this and brought it back up at their next meeting with the updated and accurate information. Mr. Sommers stated his most recent drawing was an overlay on top of the City's information and shows that it fits at exactly 125 feet, but stated that he could also move it a bit closer to the home.

Mundle suggested that Mr. Sommers bring back 2 or 3 scenarios with different distances to present to the Council. He felt the best course of action for the Council would be to table this item so they can consider it once they have more accurate information in front of them. He encouraged the applicant to meet with Mr. Berg so they are clear on what details and information the Council would be looking for.

Look stated that this could be postponed to the July 22, 2024 City Council meeting.

Mundle stated I'll make a motion to table discussion of the variance request for 23558 Ulysses Street NE to the July 22, 2024 City Council meeting. 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 A.2 IUP: Farm Animals – 22343 Sandy Drive NE

Berg presented the request of Jon and Petra Fager, the owners of 22334 Sandy Drive NE, for an IUP for the keeping of 1 alpaca/llama and 9 sheep/goats or 11 sheep/goats. The property is reported to be 5.6 acres and is located in a R2 – Single Family and Townhouse Residential zoning district.

Berg noted Chapter 10, Article V, Section 10-151 (g) requires that a minimum of one fenced acre of pasture land plus any indicated fraction thereof must be provided for each animal unit described as described in Sub. (h), which was included in the meeting packet as Attachment 5.

Berg explained that although the applicant's property is 5.6 acres, after mapping out required setbacks, there is approximately 4.41 acres of possible pasture land with some areas of tree cover. Staff calculations would afford the applicants 1 alpaca/llama and 6 sheep/goats or 7 sheep/goats and 0 alpaca/llama, based on the 4.41 acres.

Berg reviewed Sec. 10-150, Definitions, indicating that 'pasture land' means land with vegetation coverage used for grazing livestock. Pasture growth can consist of grasses, shrubs, deciduous trees or a mixture, not including wetlands. This property does not have any fencing as of the date of application. The applicants intend on using an electric fence rotating the pasture land throughout their available pasture space. He referenced Appendix A., Section 25-1 B., indicating that barbed wire and electrical fences are prohibited, except on lots with an approved interim use permit for use in keeping and confining farm animals, livestock or for crop protection. The proposed pasture land areas, farm animal shelter will be required to meet all setbacks as required by Chapter 10, Article V, Sec. 10-152. There is an existing barn proposed to be utilized as a shelter for the animals.

Berg stated at the June 26, 2024, Planning Commission meeting, a Public Hearing was held and 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 IUP for one Alpaca/Llama and six Sheep/Goats or without an Alpaca or Llama, seven Sheep/Goats for a period of one year. At the conclusion of one year, the applicants would need to reapply for the IUP and recommend it be renewed for a period of a minimum of five years.

Berg stated the City Council should review the request, consider the Planning Commission's formal recommendation and approve the IUP for the keeping of keeping of farm animals at 22343 Sandy Drive NE, with conditions, as presented in Resolution 2024-44.

DeRoche stated I'll make a motion to adopt Resolution 2024-44, Approving IUP for Farm Animals at 22343 Sandy Drive NE, with conditions as listed. Miller stated I'll second. Lewis asked any discussion?

DeRoche noted that he had watched the Planning Commission meeting and felt that they had everything covered. Lewis agreed and stated that he felt the Planning Commission did a really good job. Miller asked if there was a cost to the IUP applications. Berg stated that there was a cost and noted that it costs \$300 for an IUP and the renewal would also be \$300, but explained that the Council could make a determination about the length of the approval. Lewis stated that kind of bothered him because they would be paying \$300 for the first IUP and then come back in a year and have to pay it again and asked why they would have to pay the second \$300. Berg explained that the first IUP was for a term of one year, which is historically how the City had handled those in the past. Berg stated that this gives the applicant a one-year time period to ensure that they can comply with all the IUP conditions because it is also introduced farm animals to a site that has not had them before. Berg noted that if everything goes well, conditions are met, and there are no complaints, after one year, the City can approve an indefinite IUP or put a different time period on the approval such as 5 years or 10 years.

DeRoche stated that he would like to amend his motion to give the applicant at least two years. Lewis clarified that he felt the way to proceed was to have the one-year renewal and then the Council can decide after that year not to charge the fee. Mundle confirmed that the City could always choose to waive the fee. Look stated if this was what the Council was interested doing, it should be included in the motion language. **DeRoche stated I'll amend the motion to include: that at the time of renewal in one year, if everything was going well, the conditions had been met, and no complaints were received, that the City would waive the \$300 fee. Miller stated I'll second the amendment to the motion.** To the motion as amended, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Amended motion passes unanimously.**

7.0 A.3 Sec. 15 – Driveway Access and Standards

Berg reviewed that at the May 13, 2024 City Council Meeting, there was discussion to revisit and revise the Driveway Access Standards Ordinance. The Council directed Staff to review the ordinance and provide a recommendation to address the concerns. Berg stated Staff have reviewed Sec. 15. Driveway Access and Standards and have provided a recommended language change to address the concerns. The proposed change was presented to the City Council at the May 23, 2024 Work Meeting and the direction was to follow the City's established ordinance revision process and have the Planning Commission review.

Berg stated on June 25, 2024, the Planning Commission held a Public Hearing, during which there was no public comment. After a review of the application material, the Planning Commission, by a 5-0

vote, recommended approval of the revision of Sec. 15. – Driveway Access Standards as presented in Ordinance 24-03.

Berg stated the Council should review the Ordinance revision, consider the Planning Commission's formal recommendation, and approve the revision to Section 15, Driveway Access Standards as presented in Ordinance 24-03.

Lewis stated I'll make a motion to adopt Ordinance 24-03, Section 15, Driveway Access Standards. Smith stated I'll second. Lewis asked any discussion?

DeRoche stated that he thought the City had decided to take the 75 feet out of the ordinance. Berg explained what he proposed, was that in any platted subdivisions that has multiple lots on a paved City street, that they maintain the 75-foot requirement. But, the rural or agricultural properties that are one-offs and not part of a subdivision would be required to pave from the edge of the right-of-way/road surface to the property line. DeRoche reiterated that he thought the Council had said to take the 75 feet out. DeRoche noted the ordinance states that the permitted second driveways would be constructed and improved to current standards at the time of construction. DeRoche gave an example of someone who has a driveway and wants to put in another using Class 5 materials because it is not going to be used frequently. DeRoche referenced the variance that the City granted for property on Durant and stated that unless it becomes an issue, he would not understand why these things changed.

DeRoche stated he thought that staff was going to be in touch with the Council and figure out what would work for the ordinance, but nobody had gotten in touch with him. Berg stated that this was presented at the Work Meeting on May 23, 2024 where they had asked for feedback from the Council and did not receive any feedback other than the direction to have the Planning Commission review it. DeRoche stated that he had been under the impression that staff would be getting the feedback from the Council after the meeting. Berg explained that regardless of whether it is a driveway today or a driveway in 6 months, the ordinance requires that it be paved within one year of construction. Berg stated that they will be required to only pave to the property line for the second driveway and after that they can use a different material. Berg explained that the City was just trying to prevent pollution and rocks from getting out onto the traveling surface. DeRoche stated that there was a lot of concern when the City did the variance for the Durant Street project and even with all the rain and black dirt, he has not seen an issue there.

DeRoche stated that he had gone back and tried to find the Work Meeting minutes where this was discussed and could not find them. Berg stated that the June 24, 2024 Work Meeting minutes were approved earlier in the meeting during the Consent Agenda so he would not have had access to them before because they would have just been 'draft' minutes. DeRoche stated that the Work Meeting minutes in tonight's package are from the June meeting and this was discussed at the May meeting.

DeRoche explained his point is that before this kind of thing comes before the Council, they need to have some heads up and have enough information, so it is not like the architectural ordinance that ended up taking 13 months to complete. Berg suggested that the Council propose whatever they would like and vote on it and explained that staff will make the ordinance whatever the Council would like. Berg reiterated that this was brought up at the Work Meeting with the idea that they were looking for discussion on it.

Smith stated that he agreed with DeRoche because he thought the Council had stated that they felt 75 feet was too much. Miller noted that at one of the Planning Commission meetings, they also agreed that 75 feet seemed like it was really out of line. Smith stated that he thinks that this should

be changed because, in his opinion, 75 feet was way too long. Look stated that there were discussions about two different types of properties, residential and rural residential. Look stated that for the residential district, they are just proposing that it match what is currently there.

Lewis stated for the rural, residential it is just from the road to the property line, whatever distance that is. Berg stated he felt that the language proposed was a solution that accommodated all of the concerns but also keeps the platted subdivisions more aesthetically pleasing.

DeRoche asked about the date for the May Work Meeting. Berg stated that in his notes it says that the meeting took place on May 23, 2024. DeRoche noted that he was on the City website and that date was not listed as an option.

Look reminded the Council that even if they approve what was currently being proposed, if they decided at some point in the future that it was not working, it can be changed because this was a living document. 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 Sec. 10-151 – IUP and acreage requirements for domestic farm animals; nondomestic animals prohibited

Berg reviewed that at the May 13, 2024 City Council Meeting, there were multiple resident complaints regarding roosters that were lodged at the Public Forum. The Council directed staff to review the ordinance and provide a recommendation to address the residents' concerns. Berg stated Staff have reviewed Section 10-151 and provided a recommended change. The proposed change was presented to the City Council at the May 23, 2024 Work Meeting. The Council direction was to follow the City's established ordinance revision process and have the Planning Commission review.

Berg stated on June 25, 2024, the Planning Commission held a Public Hearing during which there were two residents who spoke. One was in favor of prohibiting roosters completely and the other recommended the City consider some incremental allowable number of roosters, based on acreage. After discussion, the Planning Commission recommendation included a provision prohibiting roosters on any lots in a platted subdivision. By a 4-1 vote, the Planning Commission recommended approval of the revision of Section 10 -151, Interim Use Permit (IUP), and acreage requirements for domestic farm animals; nondomestic animals prohibited as presented in Ordinance 24-04.

Berg asked the Council to review the ordinance revision information, consider the Planning Commission's formal recommendation, and approve, deny, or recommend a modification to Ordinance 24-04, revising Sec. 10 -151, Interim Use Permit (IUP), and acreage requirements for domestic farm animals; nondomestic animals prohibited.

Lewis noted that he felt that the Planning Commission had thoroughly discussed this matter.

Lewis stated I'll make a motion to adopt Ordinance 24-04, revising Sec. 10 -151, Interim Use Permit (IUP), and acreage requirements for domestic farm animals; nondomestic animals prohibited. Mundle stated I'll second. Lewis asked any discussion? To the motion, **Lewis, and Mundle – Aye.** Lewis asked any opposed? **DeRoche, Smith, and Miller – Nay.** That motion failed.

DeRoche stated that he was tired of arguing about this and noted that some at the Planning Commission wanted there to be no roosters allowed at all. He stated that, in his opinion, this is East Bethel, which is a rural community, and when people move out here some people want to have chickens. He explained that he did not support this change and felt that the Planning Commission essentially decided to leave this up to the Council.

Miller stated he felt that this change was too early because they had just covered the whole chicken situation and the fees involved. Lewis noted they had discussed chickens but not roosters.

Miller stated he felt it included roosters and noted that with regard to the complaints that came in, he and Councilmember Smith went and sat for 15 minutes in the neighborhood and did not hear one chicken or rooster. He stated that they had even gone up to the door of the people who supposedly owned the roosters, but they did not answer. He noted that in East Bethel you will hear a lot of animals and he believes that this change is too early and East Bethel is a big city which has a lot of country-folk that like to have chickens and roosters. He explained that he has chickens and also has a rooster and stated that his roosters has gotten into 2 fights with a hawk. He stated that he likes that he essentially has a 'watch dog' over his chickens.

Lewis asked if he was located in a platted subdivision. Miller stated that he was not in a platted subdivision. Lewis noted that this change would only apply to platted subdivisions. DeRoche stated that most of the platted subdivisions have lot sizes of 2.5 acres.

Lewis asked if what Councilmember Miller did not like, was the rule about not being able to have more than 1 rooster. Berg noted that the rural residential subdivisions have minimum acreage sizes of about 2.30 acres.

DeRoche asked if that was what the one just put in on Durant Street was. Berg stated he believed that was a 20-acre lot, so that would not be part of a platted subdivision.

Lewis reiterated that he believes some members of the Council do not like the statement that no more than 1 rooster would be permitted on all other parcels, particularly if it was someone who had 20+ acres.

DeRoche noted he believes that one person had also said they wanted the minimum acreage size moved from 1.5 acres up to 3 acres. He asked if that had been included in the information before the Council. Berg stated that it was not included and explained that he had just given the Council what the Planning Commission motion was from their meeting.

Lewis asked if Councilmember DeRoche was saying that it be changed so there could be no more than one rooster permitted on less than 3 acres. DeRoche stated that was what had been proposed.

Smith stated that was what they had said, but that was not included in what was before the Council. Berg clarified that detail was not in their motion.

DeRoche stated that Planning Commission Chair Johnson had wanted to table that item and bring it back before the Planning Commission again.

Lewis asked what the Council needed to do to move this along. Berg explained that the motion had already failed because it was 2-3 vote. Look confirmed that the motion had failed so there would need to be a reconsideration by the Council for whatever they would like to propose.

DeRoche noted there was a point raised that normally people have two roosters so if something happens to one of them, then the other younger one, would already know how to take care of business. He explained that he did not know much about them but did not feel like he could really argue with someone who actually raises them. He asked if there was anyone present who had any input for the Council.

Look asked if there may be non-crowing roosters.

Petra Vager, 22343 East Sandy Drive, stated that there were not non-crowing roosters. She explained that what she had said at the previous meeting was that the two main reasons she would want to

have more than one rooster was that they are not as effective when they are younger. So, there would essentially be no protection for the hens during the time when roosters are young and if they are alone while they are growing up, they also may not know what to do when they are grown. She explained that if you have an adult rooster, which would be an alpha rooster, but also a younger beta rooster, they will be able to learn what to do by watching the alpha rooster. She noted that the second reason she would want to have more than one rooster was that if you are breeding more than one kind of chicken, you need a rooster that matches the kind of chicken, for example, either a meat chicken or a laying chicken.

Lewis asked if the chickens were free range chickens, clipped, or in a coop. Ms. Vager stated that the chickens would be in a coop and would have a run.

Lewis asked the Council what they wanted to do. Berg explained that if there were no other motions, the ordinance would remain as it is in the books.

DeRoche suggested that the Council work this out at one of their Work Meetings so they can make sure what is brought before them has all the details that they want included.

Lewis announced that the City was planning to begin broadcasting their Work Meetings.

Berg confirmed that staff will bring this topic to a future Work Meeting.

7.0 A.5 Metes and Bounds Split: 516 217th Avenue NE

Berg reviewed that on June 10, 2024, Keith Gallagher, submitted an application for a Metes and Bounds split of a 20-acre parcel of land, located at 516 217th Avenue NE, PID: 07-33-23-31-0001, into three parcels. The first parcel, will contain the original single family home and will be divided off as a 10-acre lot. The remaining 10 acres will be subdivided equally into two 5-acre lots. The property proposed for the division is zoned Rural Residential and per City Code, Appendix A, Zoning, Section 42, the minimum lot size for any division is 2 acres.

Berg explained that to be eligible for using metes and bounds divisions as outlined in Appendix A, Zoning, Section 12, the following conditions must be met:

1. The parcel must be a minimum of five acres.
2. The parcel must have a minimum road front of 300 feet.
3. The parcel must contain 23,000 square feet of buildable area as defined in other portions of this ordinance.
4. Appropriate road, public utility, and drainage easements, as outlined in Ordinance 151 as amended, must be dedicated to the city.
5. Park and trail dedication fees as adopted by the city council by resolution must be paid at the time of city certification of parcel division.

Berg indicated that this request meets the minimum requirements for a metes and bounds parcel split by City code.

Berg stated on June 25, 2024, the Planning Commission reviewed the petition for a metes and bounds parcel split to ensure it satisfies the requirements of City Code, Appendix A, Zoning, Section 12. By a 5 – 0 vote, the Planning Commission made a recommendation to the City Council to approve the parcel split with conditions as identified in Resolution 2024-41.

Berg stated the Council should review the request, consider the Planning Commission's formal recommendation, and approve the metes and bounds parcel split with conditions as identified in Resolution 2024-41.

Mundle stated I'll make a motion to adopt Resolution 2024-41, Approval of Metes and Bounds Parcel Split at 516 217th Avenue NE. DeRoche stated I'll second. Lewis asked any discussion? DeRoche asked what effect this action would have for the Met Council. Berg stated that it would not affect the Met Council because this is within the City's rural residential zoning district so those parcels are allowed to be split down to a minimum of 2 acres and this would split them into 5 acre parcels. 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 Variance: 18164 Highway 65 NE – Cedarwood Estates

Lewis explained that because the City has to wait for some legal evaluation, the Council cannot deal with this item during tonight's meeting. Berg suggested that the Council make a motion to move this item to July 22, 2024.

Mundle stated I'll make a motion to postpone discussion of the variance request for the placement of manufactured homes on Lots 17 and 125 in the Cedarwood Estates Manufactured Home Park located at 18164 Highway 65 NE, until the July 22, 2024 City Council meeting. Smith stated I'll second. Lewis asked any discussion?

Mundle asked if this postponement would follow into the appropriate timeline for action. Berg stated there is an extension until August 4, 2024 so the July 22, 2024 meeting would still fall within the appropriate timeframe for action. DeRoche asked for clarification on the reason for this delay. Lewis stated that the City was waiting for the City Attorney to have time to review a letter that was received from the legal representation for the petitioner.

DeRoche asked if the City had gotten all the other information that they had asked for. Look clarified that the City had received the other information and explained that the letter seems to be making some claims that the City may not agree with, so they needed legal counsel to determine if that is accurate. Look stated that the applicant had been notified that this item would be pulled from tonight's agenda and would be moved to July 22, 2024.

DeRoche noted that the City had asked for verification from the MPCA. Look reiterated that the City had received all of that information. Smith stated that he had received all the information that he had asked for and had been able to review it. To the motion, all in favor say aye. **All in favor.** Lewis asked any opposed? That motion passes. **Motion passes unanimously.**

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 stated that he wanted to follow up on the question regarding the fire service certification expense that was raised under the Consent Agenda. He explained that the expense was for a Fire Officer 1 certification exam which was taken by David Bailey, Ryan Henry, and Jordan Hill. He gave a brief explanation of the exam that he found via a Google search.

Look stated last Tuesday, he attended the County Board meeting where the assessment contract passed without any conversation. He noted that they also considered the ditch abandonment that Capstone was working towards which also passed. He felt it was good that they had the public come in a few evenings prior to the meeting so they could express concerns and talk through any of the issues that arose.

Look stated that the Council should be familiar with broadband and the ARPA dollars that the County has and their efforts to invest them in areas that are underserved, including East Bethel. He noted that the County had originally gone out with a request for proposal to see if there would be interest in receiving dollars for projects which they then switched to a grant based system in which the providers then submitted requests for the grant dollars. He stated that he has heard that none of the applications met the grant requirements, so the funds were sitting there despite having been verbally allocated for underserved areas. Look explained that he had reached out to a County Commissioner and asked them to fast-track these efforts because the problem is not going away. He stated that he intends to continue working with the County to try to impress upon them the need to 'fish or cut bait'.

DeRoche asked why none of the grant applications were accepted and if they had changed the parameters. Lewis asked if it was because it was a moving target. Look stated he believes that it was a 50/50 contribution before, but then they had a discussion about a city like Nowthen, which has less wetlands and more densely developed areas. He explained because of this, the cost to extend broadband would be less than for a city like East Bethel, because of the amount of wetlands. He stated that a 50/50 contribution would end up being a larger 50/50 contribution from East Bethel than there would be for Nowthen, so it was not necessarily an apples-to-apples kind of comparison. He explained that was part of what he had encouraged the County to take into consideration because East Bethel may need some extra consideration in order to accomplish those goals that other communities may not have to deal with. He stated that he was unsure why this did not meet the grant requirements, but assured the Council that he intended to try to find out. He stated that he also intended to encourage the County to allocate money and let the community decide how they will distribute it so they can utilize those funds because the clock is running out for meeting the deadline to expend the ARPA funds.

Miller stated he had heard there was a house fire on Quincy recently and asked if everyone was okay. Look stated that everyone was fine and there were no injuries, but the home was a complete loss.

DeRoche asked who had responded to the fire. Look explained he was not sure if there was mutual aid for this fire outside of the East Bethel Fire Department. Look noted that he did not believe the fire was related to fireworks.

9.0 Other Items**9.0 A Staff Report**

None.

9.0 B Council Reports

Mundle stated on behalf of Stephanie Dorn, Director of Booster Days, he was asked to remind people that Booster Days is coming up on July 20, 2024, and will have lots of things to do including: a pancake breakfast, car show, petting zoo, inflatables, K-9 demonstration, bands, talent show, and music and fireworks at dusk. He encouraged residents to come out and celebrate together at Booster Days.

Lewis asked if Ms. Dorn would be letting the Council know when they should appear or be present at the booth. Mundle noted he believed that Administrative Coordinator Frost had sent out a document few weeks ago in order for the Council to sign up for their time slot at the Council booth.

Lewis stated the City has a complaint based zoning enforcement system and the logic behind that is that the people most directly and closely effected by zoning violations are the ones that should be listened to in the event of a complaint. He stated there is a situation in the City that has been happening for a long-time with someone who has been working out of their home. He stated that it looked like it was going to be enforceable and the sentiment was basically that they hated enforcing those types of things because it is a person's livelihood. Lewis stated it had been given a lot of attention, but it had occurred to him that the City is in favor of democracy, which is why the complaint was highly valued when coming from an adjacent property owner. He felt there ought to be a way to have a more local democracy about this disposition and explained that when there is one person that complains that someone was in violation of either an ordinance or a CUP, he did not feel it should be the final measure if, for example, 19 out of 20 people who live around this individual thinks what they are doing is fine, but the 1 individual, who may not like that person, complains. He would like to throw out the idea for Council consideration of having some sort of local democracy approach to zoning ordinance enforcement. He explained if there is a way that the City can make their zoning enforcement more democratic and locally based, he thinks that would be a good development for the City.

DeRoche stated that he agreed that this was a good idea.

Lewis stated that he was still dealing with the ACEIT, the Anoka County Election Integrity Team, to learn about the options for requesting a post-election review of some of the elections in the City and noted that Oak Grove and Ramsey have done this in the past. He was interested in pursuing this as a 'checks and balances' to ensure that the elections are being fairly conducted and no fraud was involved. He stated that he and City Administrator Look have been in conversations with ACEIT about how that can be done and how the costs can be managed. He thinks it is a good practice to have a bit of 'bird-dogging' happening with the elections because he felt it was close to the most fundamental right that people have to be able to vote. He reiterated that the conversation is ongoing and would guess that it would be limited to several races and most likely a random selection of precinct, rather than doing the whole thing.

DeRoche stated that a lot of people have posted about picking up dog excrement when they go to Booster East or Booster West. He noted that someone had chimed into the conversation and said they had been bitten by somebody's dog and that dogs were charging people and other dogs. He stated the whole time he has served on the City Council, there hasn't really been a potentially dangerous dog issue and wonders if people just haven't been reporting it. He questioned whether the City needed to address the situation if someone puts it out there. He noted that from legal

standpoint, he thinks that if enough people complain that dogs are biting and the City does not do anything, they could turn around and sue the City.

City Attorney Christina Benson stated she did not believe that would create any liability for the City. She noted that the City enforces their ordinances as they are made aware of them. So, if the City was made aware of a potentially dangerous dog and chose not to enforce the ordinance, there would need to be some sort of record as to why that was not occurring. She explained that typically, this would be handled at a law enforcement level and the complaint would be made to the local law enforcement and not City staff. She stated that once it was processed at the law enforcement level, it could then potentially be brought before the Council to make a motion regarding the designation of a potentially dangerous dog and then later, a dangerous dog.

DeRoche stated that people used to come in and complain to City staff, such as former City Administrator Davis, who would try to get people to work things out. He stated that if they couldn't work it out, whoever got bit would call the deputies to come out, write a citation, and the dog would go into quarantine. He stated after that, it would end up at a City Council meeting for them to make a decision on whether they can keep the dog, put restrictions on the dog, or have the dog put down.

Mundle stated there have not been many of these instances over the past year.

City Attorney Christina Benson stated there is one about a year or two ago, where a dog was put down. She noted that it was a very bad situation and believes it did not even go through the 'potentially dangerous dog' phase.

Mundle agreed and noted that the City had an independent hearing officer to conduct that hearing in order to have a bit of separation between the City and the situation. He stated with the severity in that case, the City wanted to have a professional to handle those efforts.

DeRoche cautioned that the City cannot be letting people's dogs bite other residents.

Mundle clarified that the City does not let people's dogs bite the residents, but noted that accidents do and will happen.

Berg explained that procedurally, the Sheriff's office would take the report which is then forwarded to Administrative Coordinator Frost. Then, Ms. Frost would distribute it to his office for electronic cataloging and the City Administrator along with the Sheriff's office makes the determination on whether the bite was escalated enough to be brought in front of the Council. Berg stated the City is getting reports, and gave the example of the report he received today where there was a bite, but the skin was not broken and the victim did not want to seek medical attention. He explained the deputy had verified that the animal had its rabies vaccination and the dog was allowed to remain in the care of their owner and told to maintain the quarantine period within the home. He explained if there was a break in the skin and medical attention is sought, that would escalate the report to come before the Council and it would not be handled administratively.

DeRoche stated that he was just going on history and noted he can remember an instance where someone was brought up for a potentially dangerous dog because their dog, who was inside a fence, ran up to the fence and scared somebody. He stated this was not a bite that broke the skin, but the potential was there to be a dangerous dog.

Berg stated the Council can give staff direction to bring them all of those instances for Council review but cautioned that he did not think the Council would actually want all of them. DeRoche stated that was not what he was asking for.

Miller stated that it seemed like every week there was something on social media about dogs that were being found were being dropped off at different areas and asked if there was anyway the City could get clarification on this so residents know exactly what do to with a lost dog. He suggested that perhaps something could be put into the City's flyer so people can see the information and know what to do.

Berg stated that in the past, they have included information in the *Bulletin* and agreed that could be repeated in a future edition.

9.0 C Other

None.

10.0 Adjourn

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

Meeting adjourned at 8:50 PM.

Submitted by:

Kayla Rokosz

TimeSaver Off Site Secretarial, Inc.