OFFICIAL PROCEEDINGS
CITY COUNCIL
CITY OF ESCANABA, MICHIGAN
Regular Council Meeting
Thursday, October 17, 2013

The meeting was called to order by the Honorable Mayor Leo J. Evans at 7:00 p.m. in the Council Chambers of City Hall located at 410 Ludington Street.

Present: Mayor Leo J. Evans, Council Members, Walter A. "Pete" Baker, Patricia A. Baribeau, Ronald J. Beauchamp, and Marc D. Tall

Absent: None

Also Present: City Manager James V. O'Toole, City Department Heads, media, and members of the public.

Pastor Jacob Comer of New Life Assembly of God Church gave the invocation and led Council in the Pledge of Allegiance.

Tall moved, Baker seconded, **CARRIED UNANIMOUSLY**, to approve Regular Meeting Minutes from October 3, 2013, and Special Meeting Minutes from October 9, 2013, as submitted.

ADJUSTMENTS TO THE AGENDA

Beauchamp moved, Baribeau seconded, **CARRIED UNANIMOUSLY**, to approve the City Council Agenda as submitted.

CONFLICT OF INTEREST DECLARATION – None

BRIEF PUBLIC COMMENT

Resident James Hellermann commented and objected to certain portions of the proposed animal ordinance amendment.

UNFINISHED BUSINESS – None

PUBLIC HEARINGS

Public Hearing - Industrial Development District – Bell's Brewery, Inc. and Bell's Properties, LLC.

In accordance with P.A. 198 of 1974, Council conducted a public hearing on a request from Bell's Brewery, Inc. and Bell's Property, LLC to establish an Industrial Development District located at property they own or control at 3525 Airport Road, Escanaba.

Assistant Assessor Kevin Dubord provided and updated on the proposed Industrial Development District.

This being a public hearing, Mayor Evans asked if there was any public comment.

Director of the Economic Development Alliance, Vicky Schwab, on Behalf of the Commerce Center, spoke in support of the proposed Industrial Development District.

Hearing no further public comment, Mayor Evans closed the public hearing.

PH-1 "By Council Member Beauchamp, seconded by Council Member Baker;

RESOLUTION TO ESTABLISH
BELL'S INDUSTRIAL DEVELOPMENT DISTRICT

Whereas, Pursuant to P.A. 198 of 1974, as amended, this City Council has the authority to establish one or more Industrial Development Districts within the City of Escanaba; and

Whereas, The City of Escanaba desires to encourage industrial development within certain areas of its corporate limits; and

Whereas, Construction, acquisition, alteration, or installation of a proposed facility had not commenced at the time the applicant requested the establishment of this district; and

Whereas, Written notice has been given by mail to all owners of real property located within the district and to the public by newspaper advertisement in the Daily Press and/or public posting of the hearing on establishment of the proposed district; and

Whereas, On October 17, 2013, a public hearing was held at which all of the owners of real property within the proposed Industrial Development District and all residents and taxpayers of the City of Escanaba were afforded an opportunity to be heard thereon; and

Whereas, The Escanaba City Council deems it to be in the public interest of the City of Escanaba to establish City Industrial Development District, as proposed;

Now, Therefore, Be It Resolved by the City Council of the City of Escanaba the following described parcel of land situated in the City of Escanaba, Delta County, and State of Michigan, to wit:

Bell's Industrial Development District – FROM THE NE CORNER OF NW1/4 OF SW1/4 OF SECTION 1 T.38N.,R.23W. THENCE MEASURE S.89°55'21"W. ALONG THE NORTH LINE OF SAID NW1/4 OF SW1/4 A DISTANCE OF 710.30 FEET, THENCE MEASURE S.00°41'57"W. PARALLEL WITH THE WEST LINE OF SAID NW1/4 OF SW1/4 A DISTANCE OF 86.33 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF AIRPORT ROAD AND THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED, THENCE S.89°06'02"E. ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 135.50 FEET TO THE WESTERLY LINE OF A WETLANDS AREA,

THENCE S.09°20'13"E. A DISTANCE OF 36.99 FEET, THENCE S.28°46'04"E. A DISTANCE OF 80.56 FEET, THENCE S.77°29'10"E. A DISTANCE OF 106.93 FEET, THENCE N.61°47'07"E. A DISTANCE OF 35.82 FEET, THENCE S.43°43'24"E. A DISTANCE OF 41.59 FEET, THENCE S.36°45'14"E. A DISTANCE OF 85.24 FEET, THENCE S.15°17'47"E. A DISTANCE OF 35.35 FEET, THENCE S.21°31'28"W. A DISTANCE OF 84.55 FEET, THENCE S.43°53'55"E. A DISTANCE OF 64.64 FEET, THENCE N.89°47'34"E. A DISTANCE OF 66.98 FEET, THENCE S.76°06'20"E. A DISTANCE OF 45.69 FEET, THENCE S.42°53'58"E. A DISTANCE OF 87.77 FEET, THENCE S.62°06'28"E. A DISTANCE OF 48.71 FEET, THENCE S.09°29'02"E. A DISTANCE OF 58.89 FEET, THENCE S.16°23'59"E. ALL BEING ALONG SAID WESTERLY LINE A DISTANCE OF 26.28 FEET, THENCE N.89°06'02"W. PARALLEL WITH SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 657.05 FEET, THENCE N.00°41'57"E. PARALLEL WITH SAID WEST LINE A DISTANCE OF 544.00 FEET TO THE POINT OF BEGINNING. CONTAINING 5.10 ACRES. (3525 AIRPORT ROAD)

Be and hereby is established as the Bell's Industrial Development District pursuant to the provisions of P.A. 198 of 1974.

Upon a call of the roll, the vote was:

Ayes: Beauchamp, Baker, Baribeau, Tall, Evans
Nays: None

RESOLUTION DECLARED ADOPTED."

NEW BUSINESS

First Reading of Ordinance No. 1141 – An Ordinance to Amend Chapter 18 (Offenses) and 19 (Parks and Recreation), of the City Code of Ordinances to Prohibit Smoking and Apply Park Rules to the John D. Besse Park.

Administration sought Council approval to amend Chapter 18 (Offenses), Section 18.203 (1) and Chapter 19 (Parks and Recreation), Section 19-2, of the City Code of Ordinances to prohibit smoking and apply park rules to the John D. Besse Park. On August 13, 2013, the Recreation Advisory Board unanimously supported this amendment and has recommended Council approval. Administration requested that the City Council set November 7, 2013, for the second reading, public hearing and adoption of Ordinance No. 1141.

NB-1 Beauchamp moved, Baribeau seconded, **CARRIED UNANIMOUSLY**, to set the date of November 7, 2013, for the second reading, public hearing and adoption of Ordinance No. 1141.

First Reading of Ordinance No. 1142 – An Ordinance to Amend Chapter 5 - Keeping of Domestic Animals.

Administration sought Council approval to amend the Code of Ordinances

pertaining to the keeping of domestic animals. Administration requested City Council set November 7, 2013, for the second reading, public hearing and adoption of Ordinance No. 1142.

NB-2 Baker moved, Tall seconded, **CARRIED UNANIMOUSLY**, to set the date of November 7, 2013, for the second reading, public hearing and adoption of Ordinance No. 1142.

Approval – Patrol Car Purchase – Department of Public Safety.

Administration sought Council approval to purchase a 2014 Chevrolet Impala police package patrol vehicle from Riverside Chevrolet, Escanaba in the amount of $23,969. Funding for the purchase was included in the current operating budget.

NB-3 Beauchamp moved, Baribeau seconded, to approve to purchase a 2014 Chevrolet Impala police package patrol vehicle from Riverside Chevrolet, Escanaba in the amount of $23,969.

Upon a call of the Roll, the vote was as follows:

Ayes: Beauchamp, Baribeau, Baker, Tall, Evans
Nays: None

MOTION CARRIED.

Approval – 4th Annual Mites to Men Pond Hockey Tournament - Ludington Park.

The Escanaba Junior Hockey Association sought Council approval to hold the 4th Annual Mites to Men Pond Hockey Tournament in Ludington Park Southwest of the Bonifas Drive Bridge on January 31st through February 2nd, 2014. Additionally, the group requested the City provide access to power and provide garbage pickup services. Administration recommended approval provided an acceptable liability insurance certificate was filed with the City and event organizers clean-up after the event.

NB-4 Tall moved, Beauchamp seconded, **CARRIED UNANIMOUSLY**, to approve a request by the Escanaba Junior Hockey Association, to hold the 4th Annual Mites to Men Pond Hockey Tournament in Ludington Park southwest of the Bonifas Drive Bridge on January 31st through February 2nd, 2014, and provide access to power and provide garbage pickup services, provided an acceptable liability insurance certificate was filed with the City and event organizers clean-up after the event.

Approval - New Year's Eve Fireworks Display at the Municipal Dock.

Administration sought Council approval to retain Wolverine Fireworks Display, Inc. to furnish and supply all labor, equipment, materials and insurance for a New Year's

Eve fireworks display at the Municipal Dock in the amount of $5,000. Esky 150 had agreed to provide funding for this display.

NB-5 Beauchamp moved, Tall seconded, **CARRIED UNANIMOUSLY**, to approve to retain Wolverine Fireworks Display, Inc. to furnish and supply all labor, equipment, materials and insurance for a New Year's Eve fireworks display at the Municipal Dock in the amount of $5,000.

Approval – MDEQ SAW Grant Application – Wastewater and Public Works Departments.

Administration requested Council authorization to apply for a MDEQ SAW Grant for sanitary and storm sewer asset management plans, which would include inventories, condition assessments, inclusion into the City GIS, modeling, etc. The grant was capped at $1,000,000 with a 10% local match. Additionally, Administration sought Council approval to retain C2AE, Inc. of Escanaba to facilitate the grant writing and submission process at a cost not to exceed $5,000.

City Public Works Director/Engineer Bill Farrell, and Water/Wastewater Superintendent Jeff Lampi provided an overview and scope of the MDEQ SAW Grant for the City sanitary and storm sewer asset management plan. The MDEQ SAW Grant would pay for an inventory of the City's 70 miles of sanitary and storm sewer pipes, and would also include conditions of those pipes that would ultimately be included into the City's geographic information system (GIS). The project, if approved, would be a huge tool for Public Works and Water/Waterwater departments.

Randy Scott from C2AE, Inc. provided Council with an update of the grant submission. Mr. Scott stated, besides creating an inventory program, a list could be developed that would allow the Wastewater Department to adjust its rate structure. The SAW Grant would also generate a plan for other future grant programs.

NB-6a "By Council Member Tall, seconded by Council Member Baribeau:

RESOLUTION
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY SAW GRANT

WHEREAS, Part 52 (strategic water quality initiatives) of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended ("Part 52"), provides at MCL 324.5204e that the Michigan Finance Authority (the "MFA") in consultation with the Michigan Department of Environmental Quality (the "DEQ") shall establish a strategic water quality initiatives grant program; and

WHEREAS, in accordance with the provisions of 2012 PA 511, which provides grants to municipalities for sewage collection and treatment systems or storm water or nonpoint source pollution control; and

WHEREAS, in accordance with the provisions of 1985 PA 227, as amended, Part 52,

and other applicable provisions of law, the MFA, the DEQ, and the Municipality that is a grant recipient shall enter into a grant agreement (the "SAW Grant Agreement") that requires the Municipality to repay the grant under certain conditions as set forth in MCL 324.5204e, as amended; and

WHEREAS, the Municipality does hereby determine it necessary to establish an asset management plan.

WHEREAS, it is the determination of the Municipality that at this time, a grant in the aggregate principal amount not to exceed $896,400 ("Grant") be requested from the MFA and the DEQ to pay for the planning and/or design activities; and

The grant is capped at $1,000,000 with a 10% local match. Additionally,

WHEREAS, the Municipality shall obtain this Grant by entering into the SAW Grant Agreement with the MFA and the DEQ.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Escanaba City Manager or City Clerk, a position currently held by James V. O'Toole and Robert S. Richards, is designated as the Authorized Representative for purposes of the SAW Grant Agreement.

2. The proposed form of the SAW Grant Agreement between the Municipality, the MFA and DEQ (attached hereto as Appendix I) is hereby approved and the Authorized Representative is authorized and directed to execute the SAW Grant Agreement with such revisions as are permitted by law and agreed to by the Authorized Representative.

3. The Municipality shall repay the Grant, within 90 days of being informed to do so, with interest at a rate not to exceed 8 percent per year, to the Authority if the Municipality is unable to, or decides not to, proceed with constructing the project or implementing the asset management program for which the funding is provided within 3 years of the Grant award.

4. The Grant, if repayable, shall be a first budget obligation from the general funds of the Municipality, and the Municipality is required, if necessary, to levy ad valorem taxes on all taxable property in the Municipality for the payment thereof, subject to applicable constitutional, statutory and Municipality tax rate limitations.

5. The Municipality shall not invest, reinvest or accumulate any moneys deemed to be Grant funds, nor shall it use Grant funds for the general local government administration activities or activities performed by municipal employees that are unrelated to the project.

6. The Authorized Representative is hereby jointly or severally authorized to take any actions necessary to comply with the requirements of the MFA and the DEQ in connection with the issuance of the Grant. The Authorized Representative is hereby jointly or severally authorized to execute and deliver such other contracts, certificates, documents, instruments, applications and other papers as may be required by the MFA or the DEQ or as may be otherwise necessary to effect the approval and delivery of the

Grant.

7. The Municipality acknowledges that the SAW Grant Agreement is a contract between the Municipality, the MFA and the DEQ.

8. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution are rescinded.

Upon a call of the Roll, the vote was as follows:

Ayes: Tall, Baribeau, Baker, Beauchamp, Evans
Nays: None

RESOLUTION DECLARED ADOPTED."

NB-6b Beauchamp moved, Baribeau seconded, to retain C2AE, Inc. of Escanaba to facilitate the grant writing and submission process at a cost not to exceed $5,000.

Upon a call of the Roll, the vote was as follows:

Ayes: Beauchamp, Baribeau, Baker, Tall, Evans
Nays: None

MOTION CARRIED.

Power Plant Update – Sale of the Power Plant.

Manager O'Toole provided an update the Council and public on the latest developments related to the sale and transfer of the Escanaba generating facility. (See Attachment – A)

APPOINTMENT(S) TO CITY BOARDS, COMMISSIONS, AND COMMITTEES – None

BOARD, COMMISSION, AND COMMITTEE REPORTS

Council Members reviewed City Board and Commission meetings each attended since the last City Council Meeting.

GENERAL PUBLIC COMMENT – None

ANNOUNCEMENTS

- Trailer Ordinance review meeting was scheduled for October 23, 2013, at 6:00 p.m. in the City Council Chambers;

- Council wished everyone a Safe and Happy Halloween, and reminded the public to not forget to turn your clocks back on Saturday, November 2, 2013;
- Encouraged qualified residents to vote on November 5, 2013;
- Saturday, October 19, 2013, 10am to noon the first annual Vehicle and Equipment Rodeo was scheduled at the City Hall/Library Municipal building;
- Community Planning for Summer 2014 programs was scheduled for October 23, 2013, at 6:00 p.m. in the City Council Chambers.

Hearing no further public comment, the Council adjourned at 7:50 p.m.

Respectfully submitted,

Robert S. Richards, CMC
City Clerk

Approved: _____
Leo J. Evans, Mayor

Zimbra **jotoole@escanaba.org**

From : Charles Detiege <cdetiege@escanabapower.com> Thu, Oct 17, 2013 03:39 PM

Subject : <No Subject>

To : Jim O'Toole - City Manager <jotoole@escanaba.org>

Cc : jhranson@hotmail.com

Dear Jim:

We have been working on the final details of the overall transaction among Black Diamond, Centurion, AEM, and EGE. This overall transaction is effectively three separate transactions – the loan from Centurion to EGE, the deposit arrangement among EGE, AEM and Black Diamond and the investment agreement between AEM and EGE.

The investment agreement between EGE and AEM is largely complete. The terms and conditions between EGE and Centurion are largely complete and EGE expects that the arrangements among Black Diamond, AEM and EGE will be finished early next week.

We will continue to keep you informed as we move forward.

Sincerely,

Charles