

**OFFICIAL PROCEEDINGS
CITY COUNCIL
CITY OF ESCANABA, MICHIGAN
Regular Council Meeting
Thursday, April 5, 2012**

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 Brady L. Nelson.

Absent: None

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

City Clerk Robert S. Richards gave the invocation and led Council in the Pledge of Allegiance.

Baker moved, Beauchamp seconded, **CARRIED UNANIMOUSLY**, to approve Special Meeting Minutes from March 7, 2012, and March 13, 2012, Regular Meeting Minutes from March 15, 2012, and Special Meeting Minutes from March 23, 2012, as submitted.

ADJUSTMENTS TO THE AGENDA

Mayor Evans asked to add an agenda item for a Power Plant Update.

Nelson moved, Baribeau seconded, **CARRIED UNANIMOUSLY**, to approve the City Council Agenda as amended.

Certificates of Appreciation and Proclamations were given to retiring City Employees Terry Russell and Donald French.

CONFLICT OF INTEREST DECLARATION - None

BRIEF PUBLIC COMMENT - None

UNFINISHED BUSINESS - None

PUBLIC HEARINGS - None

NEW BUSINESS

Consent Agenda – Use of Public Spaces – Community Events.

The City Administration recommended Council approval of the following community events utilizing public space with the following conditions: 1) Proper insurance is provided

naming the City of Escanaba and 2) The event sponsors provide all labor and material to clean up at the conclusion of the event.

Escanaba Area Public Schools – 5k Run/Walk Event – May 12, 2012, from 8:00 a.m. to 12:00 p.m.

Escanaba Area Public Schools requested the use of Ludington Park for a 5k run/walk on Saturday, May 12, 2012, from 8:00 a.m. to 12:00 p.m.

Bay de Noc Great Lakes Sports Fishermen – Angler Young Angler (AYA) Fishing Tournament – June 16, 2012, from 6:00 a.m. to 8:00 p.m.

The Bay de Noc Great Lakes Sports Fishermen requested the use of the Karas Band Shell and surrounding soccer field to hold the 3rd Annual AYA fishing tournament on Saturday, June 16, 2012, from 6:00 a.m. to 8:00 p.m. Approximately 50 boats and 100 youth are expected to participate.

Bay de Noc Great Lakes Sports Fishermen – Walleye Tournaments – June 10, 2012; August 12, 2012; and September 9, 2012.

The Bay de Noc Great Lakes Sports Fishermen requested the use of the North Shore Boat Launch for three (3) area walleye tournaments on Sunday, June 10, 2012; Sunday, August 12, 2012; and Sunday, September 9, 2012, from 7:00 a.m. to 5:00 p.m. Sanitation services were requested. Exclusive use was not requested and the tournament sponsors will utilize the launch along with members of the general public.

Bay Area Art Association – Concert Series – July 9, 2012, to August 20, 2012 (Mondays only) from 6:30 p.m. – 9:00 p.m.

The Bay Area Art Association requested the use of the Karas Band Shell on seven (7) consecutive Monday evenings from 6:30 p.m. – 9:00 p.m. for a series of summer band concerts from July 9, 2012, through August 20, 2012.

Anytime Fitness – Youth Race – May 5, 2012, from 9:00 a.m. – 1:00 p.m.

Ms. Lindsee Reiten of Anytime Fitness requested the use of the Karas Band Shell for a youth race on Saturday, May 5, 2012, from 9:00 am. – 1:00 p.m.

Lighthouse 5k Run/Walk – July 28, 2012, from 6:00 a.m. – 12:00 p.m.

Ms. Mary Feurebach requested the use of the Karas Band Shell for the Lighthouse 5k Run/Walk on Saturday, July 28, 2012, from 6:00 a.m. – 12:00 p.m.

Escanaba Area Public Schools Cheerleaders 5k Run/Walk – May 19, 2012, from 8:00 a.m. – 12:00 p.m.

The Escanaba Area Public Schools Cheerleaders requested the use of Ludington Park for a 5k run/walk on Saturday, May 19, 2012, from 8:00 a.m. – 12:00 p.m.

NB-1(a-g) By Council Member Baker, seconded by Council Member Nelson, that the consent agenda items be approved as proposed.

The vote was as follows:

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

MOTION CARRIED.

Approval – Sanitation Services for City Parks, Recreation Areas and Special Events.

On March 14, 2012, the City of Escanaba sent out two (2) invitations to submit proposals to provide sanitation services for City parks, recreation areas and special events. On March 27, 2012, one (1) vendor responded. After review of the proposal, administration recommended Council award the bid to Stenberg Brothers of Bark River, Michigan, for the period ending March 31, 2013.

NB-2 Nelson moved, Baker seconded, to award the bid for sanitation services for the City parks, recreation areas and special events to Stenberg Brothers of Bark River, Michigan, for the period ending March 31, 2013.

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

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

MOTION CARRIED.

Approval - Concession Services in Ludington Park – Parks and Recreation Department.

On March 14, 2012, the City of Escanaba sent out ten (10) invitations to concessionaires to provide food and drink concession in Ludington Park for the 2012 Summer Season. As of March 27, 2012, only one (1) vendor responded. After review of the single proposal, Administration recommended Council award the Ludington Park Food/Drink Concession for Territory #1, Territory #2, and a portable cart to Gram's Pasties of Escanaba, Michigan, provided a certificate of liability insurance is filed with the City of Escanaba.

NB-3 Beauchamp moved, Nelson seconded, **CARRIED UNANIMOUSLY**, to approve the Ludington Park Food/Drink Concession for Territory #1, Territory #2, and a portable cart to Gram's Pasties of Escanaba, Michigan, for the 2012 Summer Season, provided a certificate of liability insurance was filed with the City of Escanaba.

Approval - Fireworks Display at Ludington Park - Independence Day.

On March 14, 2012, requests for proposals to provide labor, equipment, materials and insurance for the Independence Day Fireworks Display at Ludington Park were sent out to seven (7) vendors with one (1) bid received. It was recommended the Fireworks

Display contract be awarded to Wolverine Fireworks of Kawkawlin, Michigan, in the amount of \$10,000. It was further requested Council authorize the contract amount to increase equal to community donations received for the fireworks display.

NB-4 Baribeau moved, Baker seconded, to approve the annual Fireworks Display contract be awarded to Wolverine Fireworks of Kawkawlin, Michigan, in the amount of \$10,000, and authorized Administration to increase the amount equal to community donations received for the fireworks display."

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

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

MOTION CARRIED.

Approval – Antennae Lease Amendment - South Water Tower.

Nsighttel Wireless, LLC has approached the City with a request to amend their current lease so that additional dish antennae can be installed on the South Water Tower. Nsighttel Wireless, LLC has proposed an additional \$150/month to the existing lease which will expire in 2016. Administration recommended approval contingent upon a positive pre-evaluation of the proposed installation by a qualified inspector.

NB-5 Nelson moved, Baribeau seconded, to approve a request from Nsighttel Wireless, LLC to amend their current lease so that additional dish antennae can be installed on the South Water Tower, contingent upon a positive pre-evaluation of the proposed installation by a qualified inspector.

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

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

MOTION CARRIED.

Approval – Resolution - MERS Health Care Savings Plan.

Administration sought Council approval for non-Public Safety employees to participate in the MERS Health Care Savings Plan (HCSP). This plan, if implemented, will be voluntary in nature to employees, and has no direct cost to the City.

NB-6 "By Council Member Nelson, seconded by Council Member Baker;

MERS HEALTH CARE SAVINGS PROGRAM UNIFORM RESOLUTION

WHEREAS, the Municipal Employees' Retirement System ("MERS") Plan Document of 1996, effective October 1, 1996, authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution program (MERS Plan Document Section 36(2)(a)); MCL 38.1536(2)(a)).

WHEREAS, the Board has authorized MERS' establishment of the health care savings program ("HCSP" or "Program"), which a participating municipality or court, or another eligible public employer that is a political subdivision of the State which constitutes a "municipality" under MERS Plan Document Section 2B(4); MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees.

WHEREAS, MERS has been determined by the Internal Revenue Service to be a taxqualified "governmental plan" and trust under section 401(a) of the Internal Revenue Code of 1986, and all trust assets within MERS reserves are therefore exempt from taxation under Code section 501(a) (IRS Letter of Favorable Determination dated June 15, 2005).

WHEREAS, the Board has established a governmental trust (the "Trust Fund") to hold the assets of the HCSP, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed Program Administrator.

WHEREAS, 1999 PA 149, the Public Employee Health Care Fund Investment Act, MCL 38.1211 et seq. ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries.

WHEREAS, a separate MERS health care trust fund created under PA 149 also constitutes a governmental trust established by a public corporation ("municipality") as an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided further, that the PA 149 trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code.

WHEREAS, the Board acts as investment fiduciary for the pooled assets of each MERS participating municipality and court enrolled in MERS Defined Benefit Plan, Health Care Savings Program, the Retiree Health Funding Vehicle, and the Investment Services Pool Program, on whose behalf MERS performs all plan administration and investment functions, and such participating municipalities and courts have full membership, representation and voting rights at the Annual Meeting as provided under Plan Section 45; MCL 38.1545.

WHEREAS, the Board also acts as investment fiduciary for those participating employers who are non-MERS participating municipalities and courts that have adopted the MERS Health Care Savings Program, Retiree Health Funding Vehicle, or Investment Service Pool

Program, and such entities are not accorded membership, representation or voting rights provided to MERS participating municipalities and courts at the Annual meeting under Plan Section 45; MCL 38.1545.

WHEREAS, adoption of this Uniform Resolution and Participation Agreement (the “Uniform Resolution”) by each Eligible Employer is necessary and required in order that the benefits available under the MERS HCSP may be extended.

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this HCSP Resolution that Section 43B of the MERS Plan Document shall not apply to this Uniform Resolution Adopting MERS HCSP, the Participation Agreement, the Trust Plan Document, the Trust Agreement, and their administration or interpretation.
- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS HCSP is made or occurs, under MERS Plan Document Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the Trust; or to continue administration by the Program Administrator or by MERS directly.

WHEREAS, concurrent with this HCSP Uniform Resolution, and as a continuing obligation, this governing body has completed, approved, and submitted to MERS documents necessary for participation in and implementation of the HCSP. This obligation applies to any documents deemed necessary to the operation of the Trust by the Program Administrator.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts (or readopts) the MERS HCSP as provided below.

SECTION 1. HCSP PARTICIPATION

EFFECTIVE April 5, 2012, (to be known as the ADOPTION DATE) the

MERS HCSP is hereby adopted by the City of Escanaba

- (A) **CONTRIBUTIONS** shall be as allowed and specified in the MERS Health Care Savings Program Adoption Agreement. Basic Employer Contributions, Mandatory Salary Reduction Contributions, Mandatory Leave Conversion Contributions, and Post-Tax Employee Contributions, shall be remitted pursuant to MERS by the Eligible Employer, and credited to the Eligible Employer’s separate fund within the MERS Trust Fund.
- (B) **INVESTMENT** of funds accumulated and held in the Health Care Savings Program Trust Fund shall be held in a separate reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System

Investment Act (“PERSIA”), 1965 PA 314, as provided by MERS Plan Document Section 39; MCL 38.1539, and PA 149.

- (C) **THE ELIGIBLE EMPLOYER** shall abide by the terms of the HCSP, including all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS

- (A) The governing body of this Eligible Employer desires that all assets placed in its MERS HCSP Trust Fund (as a sub-fund within all pooled HCSP trust funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers provided under Public Employee Retirement System Investment Act, pursuant to PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.
- (B) The governing body desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in the MERS HCSP Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all HCSP funds held in trust for all Eligible Employers.
- (C) All monies in the MERS HCSP Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of “Eligible Employees” who shall constitute “qualified persons” who have retired or separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used for any other purpose, and shall not be distributed to the State.
- (D) The Eligible Employer will fund on a defined contribution, individual account, basis its MERS HCSP Trust sub-fund to provide funds for health care benefits for “Eligible Employees” who shall constitute “qualified persons.” Participation in and any coverage under HCSP shall not constitute nor be construed to constitute an “accrued financial benefit” under Article 9 Section 24 of the Michigan Constitution of 1963.
- (E) The Eligible Employer designates and incorporates as “Eligible Employees” who shall constitute “qualified persons” under this HCSP Resolution those who are “Eligible Employees as defined in the HCSP Participation Agreement under this HCSP.
- (F) The Eligible Employer may designate the appropriate employer contacts who shall receive necessary reports, notices, etc.; shall act on behalf of the Eligible Employer; and may delegate any administrative duties relating to the

Fund to appropriate departments.

SECTION 3. EFFECTIVENESS OF THIS HCSP UNIFORM RESOLUTION

This Resolution shall have no legal effect until a certified copy of this adopting Resolution is filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 36(2)(a), 1999 PA 149 and other relevant laws, and this Resolution have been met. Upon MERS' determination that all necessary documents have been submitted, MERS shall record its formal approval upon this Resolution, and return a copy to the Eligible Employer's designated primary contact.

In the event an amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 54 of the MERS Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling.

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

Ayes: Nelson, Baker, Beauchamp, Baribeau, Evans

Nays: None

RESOLUTION DECLARED ADOPTED

Approval – Donation of Hurst Extrication Equipment – Department of Public Safety.

Administration sought Council approval to donate the City's surplus Hurst Extrication Equipment to the Ford River Township Volunteer Fire Department for use within their department.

NB-7 Baribeau moved, Nelson seconded, **CARRIED UNANIMOUSLY**, to approve to donate the City's surplus Hurst Extrication Equipment to the Ford River Township Volunteer Fire Department for use within their department.

Approval - Purchase of Service Credit - Municipal Employees Retirement System (MERS).

Administration sought Council approval of a resolution which will allow Utility Serviceman Ellary LaPalm to purchase 5 years of service credit. If approved, there were no direct costs to the City.

NB-8 "By Council Member Baribeau, seconded by Council Member Nelson;

Resolved, That the Escanaba City Council hereby approves the purchase of 5 years of service credit by Utility Serviceman Ellary LaPalm.

The vote was as follows:

Ayes: Baribeau, Nelson, Beuachamp, Baker, Evans
Nays: None

RESOLUTION DECLARED ADOPTED.

Approval – Wireless Microphone Purchase – Council Chambers.

Administration sought Council approval of a proposal from Superiorland Electronics, LLC of Escanaba, Michigan, in an amount not to exceed \$9,000, for the installation of 12 wireless microphones to be installed in the Council Chambers.

NB-9 Nelson moved, Baker seconded, to approve a proposal from Superiorland Electronics, LLC of Escanaba, Michigan, in an amount not to exceed \$9,000, for the installation of 12 wireless microphones to be installed in the Council Chambers.

The vote was as follows:

Ayes: Nelson, Baker, Beuachamp, Baribeau, Evans
Nays: None

MOTION CARRIED.

Approval – Esky 150 Sesquicentennial Celebration.

The Esky 150 Organization requested Council authorize the release of \$5,000 that has been budgeted for the upcoming Esky 150 Sesquicentennial Celebration.

NB-10 Beauchamp moved, Baribeau seconded, **CARRIED UNANIMOUSLY**, to authorize the release of \$5,000 that has been budgeted for the upcoming Esky 150 Sesquicentennial Celebration.

Approval – Escanaba Marina Lake Management Plan – Treatment.

Administration sought Council approval to initiate Phase II of the Escanaba Marina Lake Management Plan which will include herbicide purchase, application and monitoring by H2O In Motion, of Escanaba, MI in an approximate amount of \$35,000. Harbor Master Gravatte updated Council and reviewed details of the DEQ Application. Mr. Gravatte was positive the application would be approved.

NB-11 Baribeau moved, Baker seconded, to approve to initiate Phase II of the Escanaba

Marina Lake Management Plan which will include herbicide purchase, application and monitoring by H2O In Motion, of Escanaba, MI in an approximate amount of \$35,000.

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

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

MOTION CARRIED.

Approval – Replace/Relocate two (2) 16” Water Main Distribution Pipes.

Administration sought Council approval to purchase materials, retain limited contract labor and have the various City departments replace and relocate the two (2) primary 16” water main distribution pipes at the Water Treat Plant in an amount not to exceed \$214,200.

- Manager O’Toole provided a brief overview of the water main breaks at the City Water Plant;
- Water/Wastewater Superintendent provided a power point presentation of the two prior water main breaks at the City Water Plant;

NB-12 Nelson moved, Beauchamp seconded, to approve to purchase materials, retain limited contract labor and have the various City departments replace and relocate the two (2) primary 16” water main distribution pipes at the Water Treat Plant in an amount not to exceed \$214,200.

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

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

MOTION CARRIED.

Approval – Purchase of Utility Office Equipment and Water Meters.

Administration sought Council approval to accept a sales quote from United System, Harlan, IN, in the amount of \$38,325 for the purchase of two (2) ITRON handheld meter reading replacement computers and related support equipment along with 150 radios read transmitting water meters.

Administration stated Federal regulations now require municipalities to replace old Lead Brass based meters with new approved plastic water meters which included wireless meter readings.

Because of the amount and type of data which could be obtained, privacy concerns were discussed. It was suggested Administration provide residents with information that could be obtained. Administration advised a time savings will be obtained with the installation of the new meters.

NB-13 Nelson moved, Baribeau seconded, to accept a sales quote from United System, Harlan, IN, in the amount of \$38,325 for the purchase of two (2) ITRON handheld meter reading replacement computers and related support equipment along with 150 radios read transmitting water meters.

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

Ayes: Nelson, Baribeau, Beauchamp, Evans
Nays: Baker

MOTION CARRIED.

Power Plant Sale Update

Manager O'Toole advised negotiations for the Sale of the City Power Plant were moving forward and talks were positive. A Joint City Council and Electrical Advisory Committee Meeting was scheduled for the evening of April 11, 2012, where detailed information would be presented.

APPOINTMENT(S) TO CITY BOARDS, COMMISSIONS, AND COMMITTEES

Mayor Evans, with Council consensus, appointed Judy Schroeder, to the Brownfield Redevelopment Authority, term ending 2013.

Mayor Evans, with Council consensus, made the following reappointments:

- Brian Black, Board of Appeals, term ending 2015;
- Jon Liss, Board of Appeals, term ending 2015;
- Phillip Strom, Board of Appeals, term ending 2015;
- Gary Olsen, Brownfield Redevelopment Authority, term ending 2015;
- Todd Hurley, Harbor Advisory Committee, term ending 2015;
- Monte Morrison, Historic District Commission, term ending 2015;
- Diane Bennett, Housing Commission, term ending 2017;
- Jeanine Dagenais, Loan Administration Board, term ending 2018;
- Chris Economos, Loan Administration Board, term ending 2018;
- Patrick Connor, Planning Commission, term ending 2015;
- Tony Ruiz, Planning Commission, term ending 2015.

BOARD, COMMISSION, AND COMMITTEE REPORTS

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

GENERAL PUBLIC COMMENT

Don Racicot, commented on the wireless microphones suggested purchasing a higher end microphone, and also commented on the positive effects of wireless water meters.

ANNOUNCEMENTS

- Council Members wished members of the public a Happy Easter;
- City Budget Hearings were scheduled for April 9, 10, and 11, 2012;

Mayor Evans proclaimed April 2012 as Head Start Month.

Hearing no further public comment, the Council adjourned at 8:22 p.m.

Respectfully submitted,

Robert S. Richards, CMC
City Clerk

Approved: _____
Leo J. Evans, Mayor