

**OFFICIAL PROCEEDINGS
CITY COUNCIL
CITY OF ESCANABA, MICHIGAN
Regular Council Meeting
Thursday, January 18, 2024**

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

Present: Mayor Mark Ammel, Council Members, Ronald J. Beauchamp, Tyler DuBord, Todd Flath, and Karen Moore

Absent: None

Also Present: City Manager James R. McNeil, City Clerk Phil DeMay, Department Heads, media, and members of the public.

City Clerk DeMay led Council in the Pledge of Allegiance.

DuBord moved, Beauchamp seconded, **CARRIED UNANIMOUSLY**, to approve Regular Meeting minutes from January 4, 2024, as submitted.

Moore moved, Flath seconded, **CARRIED UNANIMOUSLY**, to approve Work Session minutes from January 9, 2024, as submitted.

ADJUSTMENTS TO THE AGENDA

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

CONFLICT OF INTEREST DECLARATION – None

BRIEF PUBLIC COMMENT –

- Dotty LaJoie – discussed the 2024-25 fiscal budget year.

PUBLIC HEARINGS

PH-1 Public Hearing – Citizen Participation – 2024-25 Fiscal Year Budget Preparation.

Each year, Council holds public hearings to facilitate input from citizens for the upcoming FY2024-25 fiscal year budget. This was the first of five (5) scheduled public hearings.

This being a public hearing, Mayor Ammel asked for public comment.

- Heather Grimes – discussed Bonifas Arts Center and City annual donation.

- Al Hansen – discussed the Bonifas Arts Center and City budget.

Hearing no further public comment, Mayor Ammel then closed the public hearing.

UNFINISHED BUSINESS – None

NEW BUSINESS

NB-1 Presentation - Audit - City Controller.

Paul Matz of the audit firm Rehmann gave a presentation of the 06/30/2023 audit results.

NB-2 Approval – TMF (Technical, Managerial, and Financial) -LSLR Grant Application - Water.

Administration requested City Council approval to hire and retain the services of C2AE of Escanaba, MI to assist the City of Escanaba Water Department in preparing an application for the TMF-LSLR Grant Funding to verify water service line materials in an amount not to exceed \$1,500.00.

NB-2 Moore moved, DuBord seconded, to approve to hire and retain the services of C2AE of Escanaba, MI to assist the City of Escanaba Water Department in preparing an application for the TMF-LSLR Grant Funding to verify water service line materials in an amount not to exceed \$1,500.00.

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

Ayes: Moore, DuBord, Beauchamp, Flath, Mayor Ammel
Nays: None

MOTION CARRIED.

NB-3 Approval - Energy Optimization Program – Electric.

Administration sought approval for the 2024 Energy Optimization Program in the amount of \$150,000. This was a budgeted item. The Electrical Advisory Committee supports and recommends this program.

NB-3 Moore moved, Flath seconded, to approve the 2024 Energy Optimization Program in the amount of \$150,000.

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

Ayes: Moore, Flath, Beauchamp, Mayor Ammel
Nays: DuBord

MOTION CARRIED.

NB-4 Approval – Concrete Pile Bid – DPW

Administration sought approval to hire Havelka Construction in the amount of \$22,000 to crush the remaining concrete pile.

NB-4 Flath moved, Moore seconded, to approve to hire Havelka Construction in the amount of \$22,000 to crush the remaining concrete pile.

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

Ayes: Flath, Moore, Beauchamp, DuBord, Mayor Ammel
Nays: None

MOTION CARRIED.

NB-5 Approval – MERS Withdrawal and Asset Transfer Agreement – Manager.

Administration requested City Council approval of the MERS Defined Benefit Plan Withdrawal and Asset Transfer Agreement.

NB-5 DuBord moved, Beauchamp seconded, to approve of the MERS Defined Benefit Plan Withdrawal and Asset Transfer Agreement.

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

Ayes: DuBord, Beauchamp, Moore, Mayor Ammel
Nays: Flath

MOTION CARRIED.

NB-6 Approval – MDOT Performance Resolution for Municipalities – Manager

Administration requested City Council approval of a resolution for the annual permit for work in the State Highway Right of Way.

“**NB-6** By Council Member Flath, seconded, by Council Member DuBord:

Resolution 24-01

PERFORMANCE RESOLUTION FOR MUNICIPALITIES

This Performance Resolution (Resolution) is required by the Michigan Department of Transportation for purposes of issuing to a Municipality an "Individual Permit for Use of State Highway Right of Way", and/or an "Annual Application and Permit for

Miscellaneous Operations within State Highway Right of Way".

RESOLVED WHEREAS, the City of Escanaba hereinafter referred to as the "MUNICIPALITY," periodically applies to the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT," for permits, referred to as "PERMIT," to construct, operate, use and/or maintain utilities or other facilities, or to conduct other activities, on, over, and under State Highway Right of Way at various locations within and adjacent to its corporate limits;

NOW THEREFORE, in consideration of the DEPARTMENT granting such PERMIT, the MUNICIPALITY agrees that:

1. Each party to this Resolution shall remain responsible for any claims arising out of their own acts and/or omissions during the performance of this Resolution, as provided by law. This Resolution is not intended to increase either party's liability for, or immunity from, tort claims, nor shall it be interpreted, as giving either party hereto a right of indemnification, either by Agreement or at law, for claims arising out of the performance of this Agreement.
2. If any of the work performed for the MUNICIPALITY is performed by a contractor, the MUNICIPALITY shall require its contractor to hold harmless, indemnify and defend in litigation, the State of Michigan, the DEPARTMENT and their agents and employee's, against any claims for damages to public or private property and for injuries to person arising out of the performance of the work, except for claims that result from the sole negligence or willful acts of the DEPARTMENT, until the contractor achieves final acceptance of the MUNICIPALITY Failure of the MUNICIPALITY to require its contractor to indemnify the DEPARTMENT, as set forth above, shall be considered a breach of its duties to the DEPARTMENT.
3. Any work performed for the MUNICIPALITY by a contractor or subcontractor will be solely as a contractor for the MUNICIPALITY and not as a contractor or agent of the DEPARTMENT. The DEPARTMENT shall not be subject to any obligations or liabilities by vendors and contractors of the MUNICIPALITY, or their subcontractors or any other person not a party to the PERMIT without the DEPARTMENT'S specific prior written consent and notwithstanding the issuance of the PERMIT. Any claims by any contractor or subcontractor will be the sole responsibility of the MUNICIPALITY.
4. The MUNICIPALITY shall take no unlawful action or conduct, which arises either directly or indirectly out of its obligations, responsibilities, and duties under the PERMIT which results in claims being asserted against or judgment being imposed against the State of Michigan, the Michigan Transportation Commission, the DEPARTMENT, and all officers, agents and employees thereof and those contracting governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract. In the event that the same occurs, for the purposes of the PERMIT, it will be considered as a breach of the PERMIT thereby giving the State of Michigan, the DEPARTMENT, and/or the Michigan Transportation Commission a right to seek and obtain any necessary relief or remedy, including, but not by way of limitation, a judgment for

money damages.

5. The MUNICIPALITY will, by its own volition and/or request by the DEPARTMENT, promptly restore and/or correct physical or operating damages to any State Highway Right of Way resulting from the installation construction, operation and/or maintenance of the MUNICIPALITY'S facilities according to a PERMIT issued by the DEPARTMENT.

6. With respect to any activities authorized by a PERMIT, when the MUNICIPALITY requires insurance on its own or its contractor's behalf it shall also require that such policy include as named insured the State of Michigan, the Transportation Commission, the DEPARTMENT, and all officers, agents, and employees thereof and those governmental bodies performing permit activities for the DEPARTMENT and all officers, agents, and employees thereof, pursuant to a maintenance contract.

7. The incorporation by the DEPARTMENT of this Resolution as part of a PERMIT does not prevent the DEPARTMENT from requiring additional performance security or insurance before issuance of a PERMIT.

8. This Resolution shall continue in force from this date until cancelled by the MUNICIPALITY or the DEPARTMENT with no less than thirty (30) days prior written notice provided to the other party. It will not be cancelled or otherwise terminated by the MUNICIPALITY with regard to any PERMIT which has already been issued or activity which has already been undertaken.

BE IT FURTHER RESOLVED that the following position(s) are authorized to apply to the DEPARTMENT for the necessary permit to work within State Highway Right of Way on behalf of the MUNICIPALITY.

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

Ayes: Flath, DuBord, Moore, Beauchamp, Mayor Ammel

Nays: None

RESOLUTION DECLARED ADOPTED."

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

- Mayor Ammel read a Christmas Card from Bishop Noah Home.
- Happy Valentines Day.

Hearing no further public comment, Flath moved, DuBord seconded, the Council adjourned at 7:41 p.m.

Respectfully submitted,

Phil DeMay
City Clerk

Approved: _____
Mark Ammel, Mayor