

**CITY OF EVART
REGULAR COUNCIL MEETING**

November 18, 2013

Meeting called to order at 7:00 p.m.

Present: **Mayor** - Eric Schmidt; **Council** - Dan Elliott, BJ Foster, Casey Keysor, Gregg Sherman; **City Clerk** – Seraphim Leemon; **City Manager** – Zack Szakacs; **City Treasurer** – Sarah Bigelow. Absent: (none)

Guests: Ryan Douglas, Miranda Lorenz, Jim White - City Attorney, Buck Vallad – Director DPW, Charles Walter, Ralph Carlson, Mitch Perry, Chase DeMott, Art Jude, Harriet Bieri, Nicole Weiss – *Cadillac Evening News*, Karin Armbruster – *Pioneer Herald Review*, Melora Theunick – Director LDFA, Mark Wilson – Director Park & Recreation, Al Weinberg – Director DDA, Duane DeWitt, Jordan Liss, Dick Douglas, Connie Douglas – President Chamber of Commerce, Kendra Backing – Police Chief.

City Clerk administers oath of office to council member Dan Elliott .

Mayor Schmidt welcomes newly elected council to their inaugural meeting.

Citizenry Comments:

Art Jude implores new council to place a priority on needs of Evart's retirees.

Moved by Keysor, seconded by Sherman to amend the agenda ...

1. ...adding City Manager addressing "DIG" Grant, under New Business
2. ...adding City Manger addressing "SAW Grant", under New Business

Passed unanimously.

Moved by Foster, seconded by Sherman to approve the minutes of November 4, 2013 meeting as amended:

1. Keysor notes correction to price of light bulbs from 65-cents to \$65.00
2. Foster notes omission of his name as "Present" in minutes of both Public Hearing and Planning Commission; City Manager points out this is traditionally addressed at the committee level vs. council

Passed unanimously.

The LDFA - Director Theunick reported:

1. Their Wednesday 11/13/13 meeting went well.
2. Move Evart Forward Citizens' meeting Friday 11/8/13 went well with guest

speaker the attorney for the majority of Municipal Powers in Michigan. He advised that until pending legal case is concluded, forward action would be wasteful although preparedness for immediate forward momentum would behoove Evert as a "first come – first served" philosophy.

3. Industrial Park passed inspection last week.

4. Considering pursuing some grants including one researched by Dave Foster to subsidize placement/acquisition of public sculptures. Local fundraising (couple hundred dollars, per) would be used to fund accompanying plaques.

The DDA – Director Al Weinberg reports:

1.) Bidding process now open on 117 East 7th Street.

2.) Bidding process now open on newly acquired property "Rainbow Records Video", which they are hoping to sell.

3.) Bids currently being taken to demolish "Speeds" building on U.S. 10. Goal is for retail business moving into all three locales. Mayor questioned distinction between Speeds back wall and Property Central's garage wall. Weinberg also noted his office's express hope that Property Central would remove chain link fence for aesthetic reasons. City Clerk inquired if any conversation with Evert Museum had been pursued since Speeds had been considered ideal permanent indoor display for donation of historic Evert fire engine; it had not.

4.) Observed newspaper report comparing Mecosta county's "D+" versus Osceola's "C" Quality of Living rating; Osceola buoyed by activities and events.

5.) Working with other public agencies compiling comprehensive list (schools, churches, county, etc.) of December events in order to spark collective media attention.

6.) Evert Christmas Carnival slated for December 7. Requires road closures; Mayor noted motion already had been passed to that affect.

7.) DDA Board member Diane Beach has resigned. Candidate list will be submitted to Mayor.

Unfinished Business:

City Manager opts to postpone until December 2, 2013 DDA/LDFA budgetary concerns

New Business:

- Appointments to Boards and Commissions

1.) City Manager recommends council accept recommendation of Parks & Recreation Director: Patrick Muczynski and Christina Foster

Moved by Keysor, seconded by Schmidt. **Passed** unanimously.

2) Mayor elicited volunteers for additional openings created by November 5 election (Finance – Carlson; Labor Relations – Walter; Street Commission – Carlson; Police Commission – Walter; Fire Commission – Walter), nominating Elliott for Fire Board. **Moved** by Schmidt, seconded by Keysor. **Passed** unanimously. Remaining committee positions to be determined as of next council meeting.

- Rezoning I-2 to C-2 recommendation from Planning Commission as to relocation from Osceola Township to city limits of the Family Dollar store (as represented by the Atwater Group of Chicago).

- 1) City Manager reported zero attendance at November 11th public hearing.

- 2) Architectural site plan is not yet finalized.

- 3) Jordan Liss of Atwater Group was available for Q&A. City Clerk asked for estimated groundbreaking timeline; late spring/early summer was ultimately projected. Mayor asked if Family Dollar owns current building (no) and who would own new building; Mr. Liss reported that it would be private investors.

- 4) City Manager raised concerns that he has discovered severe oversight on previous administrations' behalf. Following a 1993 set of signatures, all other administrations have failed to meet legal requirement of adding Mayoral and City Clerk signatures to official Zoning Map at the time of any/all zoning changes.

Moved by Keysor, seconded by Sherman to follow Commission recommendation to re-zone parcel number 67-51-004-006-00 from I-2 to C-2. **Passed** unanimously

- The \$30,000 Wellhead Protection Grant applied for eight to nine months prior (typically it is cyclical approximately every five years with a heads-up from the DEQ), all is going well; City Manager having saved dollars from previous grant and having come in under budget (City's cost stands at \$6,072 despite being authorized to spend in excess of this), requests authorization to sign documents.

Observation made that with regard to sanctity of wells' water source, word of an oil well being drilled north of 7 Mile Road came to City Hall's attention but the DEQ has approved its operation. City Manager reiterates need for continuation of wellhead protection. **Moved** by Foster, seconded by Elliott: Authorizing City Manager to sign appropriate documents in pursuit of current Wellhead Protection Grant.

Passed unanimously

- New business moving into town, River City Bottling Company, owned by a woman in Grand Rapids who purchased Duane DeWitt's Great Lakes Bottling Company interests, renaming it and seeking water purchase from city-owned wells at 251 S. Industrial Drive. This water lease would be under current water rates, with River City Bottling fully understanding that a rate increase may soon be enacted citywide and they would not be exempt.

Mr. DeWitt now represents this new company which intends to begin fulfilling corporate contracts, potentially including Walmart, as soon as February 2014 with products of private label water and "kids' drinks". This, he projects, would require purchase of 150,000 to 350,000 gallons/month. His letter requests the City underwrite the electrical hookup. City Manager in cooperation with DPW Director, Buck Vallad, estimate said expense at approximately \$10,000.

- 1) City Manager noted since 2006 well-installation, City has recouped zero dollars in water sales, despite spending \$135,000 in tax dollars to establish wells.

- 2) DeWitt owns the building in question and is in turn, leasing it to River City

Bottling; renovations are already aggressively underway.

3) City Manager suggests options to consider include City putting wiring into building and therefore control electrical, as it becomes an asset to that building and with current water rates at the higher use projection of 350,000 gallons/month, that is a mere \$400 water bill which would take some 15 years if used to offset Evert's electrical investment. He points out that if, however, it is in our own building then the City can take advantage of depreciating the expenses.

4) City Manager emphasizes need for all aspects to be done in writing through City Attorney's office.

5) Sherman inquires as to the number of new jobs to be created. DeWitt says six employees and when pressed notes plant manager and possibly a few others will be relocating from Grand Rapids area.

6) City Manager acknowledges the legal history between DeWitt and the City and notes the bottom line is whether or not Evert wants to sell water and get the two wells to be functional. Tests through LDFA show it is water at a "food grade" quality.

7) Elliott asked if Evert could provide water to River City by way of the City system – questioning legal liability of the City if product quality is ever called into question. Vallad and City Attorney note that legal restrictions prevent that option.

8) City Clerk questions duration of proposed agreement. It is open-ended, month-to-month. DeWitt then asserts that River City Bottling's long term goal is purchase of these two wells. Theunick then cites recent on-going LDFA negotiations with potential water purchaser, questioning what position the River City Deal would take in that negotiation. City Manager clarifies, saying "first come first served" in terms of the purchase of the wells.

9) City owns the wells, building and has 99 year easement from DeWitt.

10) Elliott recommends deferring to City Attorney for review and wonders if selling outright might be the most prudent and legally safe action.

11) City Attorney notes potential liabilities as these wells are not part of the City's official water system.

12) DeWitt notes new owner is minority female and therein has high potential for government work, adding that Evert building will no doubt need expansion and Grand Rapids warehouse will have to currently handle the volume.

13) City Manger suggests that as to Elliott's question of a separate meter, River City is long-term looking to purchase wells and that perhaps a lease-to-own water use contract might best serve the relationship.

14) Mayor asked if it would be in the best interest of River City's need for expediency, to have its own owner simply underwrite the \$10,000 expenses herself. DeWitt suggested that since she's already spending \$70-\$80,000 (plus hundreds of thousands overall) that the additional \$10,000 would be a burden.

15) Foster, with "history" considered, is skeptical. Says he "isn't aware of any other business that could expect to come to town, have taxpayers drill a well for them and then turn around and have the city sell it to them". DeWitt responds with offer of a Lease-to-Purchase while River City Bottling undertakes other start-up expenses.

16)City Attorney states that in the interim, no legal reason exists to not temporarily begin water sales as long as River City complies with water safety regulations; selling simply water now and then considering a Lease-Purchase at a later date is an option if the DPW is satisfied.

17)Buck Vallad, Director DPW points out Evert's operator's license cannot cover River City if they indeed purchase the wells vs. the water.

18)City Manager brings discussion back to the basic question "Do we help him with electric / \$10,000?".

19)Foster wonders if costs could be incorporated into the water rate or a clause requiring water purchases over a specific length of months in order offset/repay city coffers.

20)Vallad is trying to find a used breaker to save investment dollars; new breaker (yet alone wiring) is \$2,000. Points out that all assets in that building are Evert's (wire, breaker, etcetera) and if building due to some River City issue is shut down for cause, the City becomes cut off from all ability to recoup dollars.

21)City Manager proposes that negotiations move forward with details of electrical pending; asks Theunick for approximate timeline from Consumers Energy for hooking up (at least two months).

22)Vallad suggested use of natural gas generator for relatively the same costs while goals and deals are ironed out; City Manager doesn't think City should risk blame for production line stoppages in event generator should fail.

23)DeWitt makes new offer: underwriting \$5,000 of the likely expense of electrical.

24)Keysor asks what precedent that would set if wells are sold to one company while a second has already expressed interest.

25)City Attorney says to keep in mind that at one time the agent of River City Bottling, Mr. DeWitt, owned these very wells, so it should stand as an unique case.

26)City Clerk asks Theunick if their LDFA potential water buyer would find the meter inside of the building to be an asset or conversely, in any way detrimental to their business proposal or desire to buy water from the City. Theunick responds that all LDFA negotiations have been on the concept of selling water not wells, and that starting to offer wells for sale "opens up everything". DeWitt suggests that the LDFA water-buyer could always purchase that water ultimately from River City Bottling creating a win-win.

Motion by Foster, seconded by Sherman: Split the costs with River City Bottling of moving forward as quickly as reasonably possible to install City owned wiring and electrical inside of the building, to a maximum City commitment of \$5,000, with River City Bottling purchasing water not wells, although the \$5,000 could be considered as part of a future purchase price should that deal develop.

Passed unanimously

- Pilot Valve Malfunction / Replacement

DPW Director, Buck Vallad, described the part failure which generates a 6 to 8 inch leak daily, and with freezing temperatures imminent, action he said is needed A.S.A.P.;

shipping costs are estimated at 75-cents/mile. **Moved** by Foster, seconded by Elliott allocate \$3,295 plus freight for DPW repair of pilot valve components.

Passed unanimously

- “DIG” Grant – the Community Development Block Grant

City Manager notes that DDA applied for this, had asked the City to help underwrite 50/50; this resulted in a City liability of a mere \$35,000 toward innumerable electrical upgrades, park benches, parks, etcetera. We have gotten the first phase, February 2014 will be the final decision, and all verbiage suggests we are in good standing to receive. **Moved** by Keysor, seconded by Sherman that ... “City Manager is empowered to sign the grant”. **Passed** unanimously

- “SAW” Grant application – Storm Water and Waste Water Grant

City Manager details the arrangement whereby waste water management and analysis training and cleaning of sewer line aide to the tune of \$1.1 million would be gained without any matching Evert dollars (due to our poverty level), courtesy of the DEQ.

ROLL CALL VOTE RESOLUTION (#6-2013) called, authorizing City Manager to pursue grant: **Passed** unanimously:

Ayes: Elliott, Foster, Keysor, Schmidt, Sherman

Nays: (none)

Abstentions: (none)

(see attached resolution)

Treasurer – Sarah Bigelow reported:

Reports submitted pertaining to Manual Check Report November 8 through 14; October Funds Report; and vendor list.

- **Motion** by Keysor, seconded by Sherman ...

... Accept Vendor List as submitted

Passed unanimously

- Treasurer advises rolling-over into 2 year term at FirstMerit Bank, the ten CDs which mature there on 11/21/13, ending the 4.89% current interest rate.

- 1) Keysor notes three year term would yield significantly more for relatively short extension of time
- 2) Elliott recommends staggering due dates
- 3) Treasurer explains that bank itself recommended a 15 month CD
- 4) Foster says it is hard not to “shop locally” if the Council itself doesn’t, including cases like this
- 5) Keysor agrees but notes that none of the three banks in town is locally owned and that the current Grand Rapids rate yields double the revenue

Moved by Sherman, seconded by Foster to keep the money at FirstMerit and roll it into their two year CD at .6% (point-six percent). **Passed** with Keysor the dissenting vote

- Winter Tax deadline falls upon a Friday, February 14, 2014, a day regularly scheduled as “closed” for City Hall operations; she requests resolution amending due date to the following regular day of business, Monday 2/17/14.

ROLL CALL VOTE RESOLUTION (#7-2013) called, authorizing deadline change to February 17, 2014: **Passed** unanimously:

Ayes: Elliott, Foster, Keysor, Schmidt, Sherman

Nays: (none)

Abstentions: (none)

(see attached Resolution)

City Manager – Zack Szakacs Reported:

1) As to Michigan Solutions Group’s “Move Evert Forward” remarks, he wonders where Council currently stands. Members had been invited to meetings yet none attended, and in general, City Manager had been left with impression Council had intended to exclusively honor current Consumers Energy contract. Should Move Evert Forward be taken off the table or not?

- Schmidt remarks that it is already off the Council’s table, and that the LDFA is the only remaining entity exploring the option.

- Sherman clarifies that Council indeed removed it as an option for the City at this time and that if LDFA pursues it is their option to do so, although he personally considers it to be an insult to the Council.

2) In interest of transparency, State of Michigan has audited Evert’s fiscal 2013 and reprimanded changes which exceeded originally budgeted dollars. Szakacs points out that a budget is a living document and inherently demands fluidity. The City’s CPA, Cary Jay Vaughn, has responded and City Manager will be signing response letter.

3) State mandated Personal Property Tax Exemption changes take effect in 2014. This directly and greatly impacts funding of DDA; all businesses located within city limits will have the option to no longer pay a personal property tax if said business’s tax would be less than \$40,000. Paperwork must be filed for exemption to be legal. Evert’s City Assessor is poised to send correspondence to this effect to all businesses in town. Revenues not exempted as of the deadline, however, should not be relied upon since a business owner may still receive the exemption by petitioning the Zoning Appeals Board. In practical terms, the DDA which in fiscal 2013 received \$70,000 in business personal property tax revenue, in 2014 is projected to merely receive \$10,000. This is in large part why Szakacs will be focusing in detail on DDA/LDFA budgeting at December 2, 2013 Council Meeting.

4) Elicited email nominations as to openings and recommendations for

Board/Commission appointments.

- 5) Email admonitions to new Council:
 - (a) if a group email is sent by City Manager, do not reply or forward (this would be a violation of Open Meetings Act)
 - (b) if email generated from City Manager is addressed to you personally, feel free to correspond
 - (c) only your emails are portable, all other computer information remains dedicated to your city issued computer

City Attorney – Attorney Jim White reported:

As to the on-going Dean's Dairy attempt to forego payment of contractually obligated final sewer payments, the City has made a counter offer. That November 13, 2013 correspondence is part of current negotiations, and as such, legal considerations mandate an internal confidentiality, therefore, White invited council members to contact him telephonically with any/all inquiries. To date, there has been no response from Dean's.

Department of Public Works (DPW):

Report submitted on October activities; hourly allocations of workforce; water/sewage and Ice Mountain water volumes; comparative 2012/2013 electrical expenses; and DEQ (Department of Environmental Quality) September inspection at Waste Water Facility - where no violations were found.

Police Department – Chief Kendra Backing reported:

- Report submitted on October activities including mandated and voluntary officer presence at a variety of community events and training initiatives; gain of \$2,500 from Fundraising Dinner hosted by Moose Lodge; crime report addressing arrests/traffic issues/blight violations/patrol car visibility.
- Extends welcome to new Council members

Department of Parks and Recreation:

Report submitted pertaining to October and early November events; pursuit of Riverside East as camping site; snowshoe donation; monthly meetings slated for both Quilters and Photography clubs; gain of \$540 each for Park & Rec and 4th of July's Party-in-the-Park from inaugural Haunted Park.

Additional Remarks:

City Manager entreats Council to feel comfortable popping into his office for five to ten minute conversations; anything longer requires an appointment to allow for dedicated time. Szakacs emphasizes his accessibility via email for questions and/or concerns, noting that he routinely replies to emails after 3:00 o'clock most afternoons while returning telephone calls each morning. Jennie Duncan, his assistant, is another avenue available to Council. Szakacs, with Buck Vallad as his stand-in, is reachable via cell phone 24 hours a day / 7 days a week.

Moved by Schmidt, seconded by Sherman ...
... Adjournment at 8:20 p.m.
Passed unanimously

Resolution #7 – 2013
Extension of Winter Tax Due-Date for 2014

Date: November 19, 2013

WHEREAS, the City Treasurer, Sarah Bigelow, sought authorization from the City Council to adjust the deadline for tax filing for the current year's Winter Taxes; and

WHEREAS the original date of Friday, February 14, 2014 is not a regular day of operation for Evert City Hall;

NOW THEREFORE, BE IT RESOLVED :

By unanimous Roll Call Vote, the City Council of Evert at its regular meeting of November 18, 2013, in order to accommodate the citizenry, extends the due date for this calendar year's Winter Taxes from February 14 to Monday, February 17, 2014 .

Motion made by Foster , seconded by Sherman to adopt the Resolution.

RESOLUTION DECLARED ADOPTED.

YEAS: Elliott, Foster, Keysor, Schmidt, Sherman

NAYS: (none)

ABSTAINS: (none)



Seraphim S. Leemon, City Clerk



City of Ewart
County of Osceola

Resolution Authorizing the SAW Grant Agreement

Minutes of the regular meeting of the Council of the City of Ewart County of Osceola, State of Michigan, (the "Municipality") held on November 18, 2013.

PRESENT: Members: Dan Elliott, BJ. Foster, Casey Keysor, Eric Schmidt, Gregg Sherman

ABSENT: Members: (NONE)

Member Sherman offered and moved the adoption of the following resolution, seconded by Member Keysor.

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 ***(select one or more)***
 establish an asset management plan, establish a stormwater management plan, establish a plan for wastewater/stormwater, establish a design of wastewater/stormwater, pursue innovative technology, or initiate construction activities (up to \$500,000 for disadvantaged community).

WHEREAS, it is the determination of the Municipality that at this time, a grant in the aggregate principal amount not to exceed \$1,100,000 ("Grant") be requested from the MFA and the DEQ

to pay for the above-mentioned undertaking(s); and

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. City Manager (*title of the designee's position*), a position currently held by Zachary Szakacs (*name of the designee*), 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 Sample Grant Agreement) 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 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.

YEAS: Members: FIVE

NAYS: Members: *NONE*

RESOLUTION DECLARED ADOPTED

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Council of the City of Ewart , County of Osceola, said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Seraphim S. Deemon 11-19-13
Name
City of Ewart, Clerk
City of Ewart County of Osceola



Michigan Finance Authority

Stormwater, Asset Management, and Wastewater (SAW)
GRANT AGREEMENT

This Grant Agreement ("Agreement") is made as of _____ 20____, among the Michigan Department of Environmental Quality, Office of Drinking Water and Municipal Assistance (the "DEQ"), the Michigan Finance Authority (the "Authority") (the DEQ and the Authority are, collectively, the "State") and the _____, County of _____ ("Grantee") in consideration for providing grant assistance to the Grantee.

The purpose of this Agreement is to provide funding for the project named below. The State is authorized to provide grant assistance pursuant to the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. Legislative appropriation of funds for grant disclosure is set forth in 2013 Public Act 59.

The Grantee shall be required to repay the grant made under this Agreement (the "Grant"), within 90 days of being informed by the State to do so, under certain conditions, as set forth in Section XVIII. Program Specific Requirements: SAW Grant.

Award of a Grant under this Agreement and completion of the activities identified in Exhibit A does not guarantee loan assistance from the State Revolving Fund, Strategic Water Quality Initiatives Fund, or Stormwater, Asset Management or Wastewater.

GRANTEE INFORMATION:

GRANT INFORMATION:

Project Name: