

The City Council met in regular session in the Council Chambers on Wednesday, April 11, 2007 at 7:30 p.m.

Council Members present: Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6.

On motion of Mr. Thompson, Seconded by Mr. Mr. Schember, the reading of the minutes of the meeting of April 4, 2007 were dispensed with and same adopted with copies furnished to the members of City Council by yeas Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

Copies of the bills under date of April 13, 2007 were given to City Council same same adopted by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0., with the exception of invoices to the NATO Centers, on which Mrs. Jenkins-Husband abstained from voting.

By Mr. Schember, Council File Ordinance #15,513, Pending Official File Ordinance #22-2007,

an ordinance amending Official Ordinance #80-2005 known as the Zoning Ordinance of the City of Erie by changing the classification of property located on **East 10th Street and Gilson Avenue**, known as Lot #2 being 2,294 acres in area from RLB (Residential Limited Business District) to that of M-1 (Light Industrial District). (Pursuant to Public Hearing held March 21, 2007 and the request of R. Larry Bossolt, Greater Erie Industrial Development Corporation for reuse by a current incubator company, Beaumont Technologies, Inc. The City Planning Commission recommends approval of this rezoning request)

April 11, 2007. City Council on motion of Mr. Schember, Seconded by Mr. Thompson, having read Council File Ordinance #15,513 and now known as Pending Official File Ordinance #22-2007, does hereby adopt on Final Passage by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

By Mr. Thompson, Council File Ordinance #15,514

an ordinance appropriating the sum of **\$500,000.00** from unappropriated and anticipated revenue from Account #3336 State Operating Grant-PA Department of Community and Economic Development and providing for the expenditure thereof by allocating said sum to Account #310-1210-2006-4607 Enterprise Zone Competitive Grant - Custom Engineering Co.

April 11, 2007. City Council on motion of Mr. Thompson, Seconded by Mr. Jones, having read council File Ordinance #15,514 does hereby adopt on First Reading by yeas Council Members Cappabianca, González, Jones, Thompson and Jenkins-Husband. 5. Nays. 0. (Mr. Schember abstaining)

April 11, 2007. Signed by the President. Attested by the City Clerk.

By Mr. González, Council File Ordinance #15,515

an ordinance appropriating the sum of **\$277,000.00** from unappropriated and anticipated revenue from Account No. 3332 - State Operating Grant-PennDOT and providing for the expenditure thereof by allocating said funds to Account #271-0707-0000-4075 Bridges and Streets. (City of Erie Bikeway-East Lake Road.

April 11, 2007. City Council on motion of Mr. González, Seconded by Mr. Cappabianca, having read Council File Ordinance #15,515 does hereby adopt on First Reading by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

By Mr. González, Council File Ordinance #15,516

an ordinance appropriating the sum of **\$82,500.00** from unappropriated and anticipated revenue from Account #271-0707-0000-3332 State Operating Grant-PennDOT and providing for the expenditure thereof by allocating said funds to Account #271-0707-0000-4075 Bridges and Streets (for the Chapin Street Pedestrian Facilities (010M75-A).

April 11, 2007. City Council on motion of Mr. González, Seconded by Mr. Cappabianca, having read Council File Ordinance #15,516 does hereby adopt on First Reading by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

By Mr. Schember, Seconded by Mr. Thompson, Resolved, etc.,

That the proper city officials are authorized and directed to execute necessary documents and agreements effectuating a 15 year loan to **Jave Technologies, L.P.** made available through the Commonwealth of Pennsylvania Enterprise Zone Program and the Erie Enterprise Zone Revolving Loan Fund and loan payments, at a fixed interest rate of 5.0% per annum, with a one-time loan processing fee of \$720.00 (based on 1/2 of 1.0% of the amount financed). This funding is contingent upon the County of Erie Redevelopment Authority Revolving Loan Financing of \$144,000 and National City Bank. N. A. financing of \$63,000.00. We will share a first mortgage lien on industrial property at 1527 East Lake Road.

April 11, 2007. City Council adopt by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

By Mr. Thompson, Seconded by Mr. Schember, Resolved, etc.,

That the City Solicitor is authorized and directed to prepare an ordinance on the initiative of the City Council, amending Zoning Ordinance #80-2005 by changing the classification of property located at **1909 Franklin Avenue**, from R-1 (Low Density Residential District) to that of C-2 (Local Business District) and after preparation to refer the same to the City Planning Commission for recommendation and report thereon. (At the request of Vernon Brown for construction of an office and mixed retail use with a new mini-plaza totaling approximately 13,000 square feet - Accompanied by the requisite filing fee in the sum of \$500.00.)

April 11, 2007. City Council adopt by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Seconded by Council Members Cappabianca, González, Horan-Kunco, Jones, Schember and Thompson

Resolved, by the Council of the City of Erie, That

WHEREAS, the City Council of the City of Erie wishes to pay special tribute to the Second Harvest Food Bank of Northwest Pennsylvania, for their sponsorship of "Kids Café" in the City of Erie which is a program initiative whose goal is to feed hungry children by providing them with nutritious meals in an after school setting, and

WHEREAS, the "Kids Café" supplements meals with other activities such as nutrition education, homework help, life skills education, anti-drug and anti-violence programs, music, games, sports, arts and crafts, thus conducting activities in a safe facility under proper supervision of trustworthy staff at Sister Gus' Kids Café, Booker T. Washington Center Kids Cafe, John F. Kennedy Center Kids Café and the Little Italy Kids Café at Trinity Center, so

THEREFORE, BE IT RESOLVED by the Council of the City of Erie that this commendation is hereby presented to Mrs. Karen Seggi, Executive Director of the Second Harvest Food Bank of Northwestern Pennsylvania and we extend to her organization our heartfelt thanks and admiration for sponsoring this very helpful and worthwhile community activity for the youth of the City of Erie.

April 11, 2007. City Council adopt by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mr. Cappabianca, Resolved, etc.,

That the City Traffic Engineer is respectfully requested to study the traffic situation at East 13th and Parade Streets, in particular during school dismissal times and to submit a report and findings thereon to City Council.

April 11, 2007. City Council adopt by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

TO: Erie City Council March 29, 2007
FROM: Paul A. Lichtenwalter, Assistant Director of Finance
SUBJECT: Golf Course Pouring Rights

See attached proposal from Coca-Cola and Pepsi-Cola. The Coca-Cola proposal will provide the City of Erie Golf Fund with approximately \$1,800.00 more revenue than the Pepsi-Cola proposal.

To: John Whaley, City of Erie Golf Courses March 19, 2007
From: Keith Wagner, Erie Coca-Cola
Subject: 2007 Season

Equipment

* Estimate 3 machines for J C Martin Golf Course

* Estimate 4 machines for Downing Golf Course

Full Service Vending

- * Vend price of \$1.25 on carbonated soft drinks, water and sports drinks
- * 35% commission paid monthly
- * Estimated volume: 1,200 cases
- * Estimated commission paid to the City of Erie: \$14,400 annually
- * Vend price of \$2.00 on Energy drinks (Rockstar Full Throttle, Tab Energy) with a 20% commission

Rebates

On every case sold, the City of Erie will receive \$3.00 back in the form of a rebate check. Estimated annual rebates to the City: \$3,600

Total paid to the City of Erie from Coca-Cola - \$18,000

Beverage Proposal - PBG

30% commission (1.25 + vend)	Full Service Vending
\$3.00 per case rebate on vended cases	24 park
\$500 annual marketing upfront money	Mutually agreed upon event

Local Marketing: Golf Pass Give-a-ways at local food Service venues
Enter to win a round of Golf
Barbato's Valerio's Hungry Howies Family First Golf Dome
All Country Fairs
Banners for events as needed
Sampling event Monthly at each course catered to age groups
Monthly Give-a-way Drawings at each course for clients

AGREEMENT

This Agreement ("AGREEMENT") is between Coca-Cola Enterprises, Inc., a Delaware Corporation (hereinafter referred to as "Bottler") and The city of Erie Golf Courses, a public entity (hereinafter referred to as "Account")

WHEREAS, Account owns and operates the golf course facilities in Erie County, Pennsylvania located at J. C. Martin Golf Course, 652 Shunpike Road; Downing Golf Course, 1351 Troupe Road and has the authority to offer certain exclusive advertising and beverage availability rights in such facility over a one (1) year term, and

WHEREAS, Bottler desires to advertise certain of Bottler's beverage products ad that its beverages be made available for sale in such facility

NOW, THEREFORE, in consideration of the acts and promises contained herein, the parties hereby agree as follows:

A. Defined terms

1. "Beverages" shall mean all carbonated and non-carbonated non-alcoholic beverages, including but not limited to, carbonated soft drinks, mixer, flavored and unflavored packages waters; fruit juices; fruit juice-containing or flavored drinks, fruit punches and ades; isotonic energy and fluid replacement drinks (sometimes referred to as "sports drinks"), cold coffee and tea drinks; and all drink or beverage bases, whether in the form of syrups, powders crystals, concentrates or otherwise, from which such drinks and beverages are made.

2. "Products" shall mean Beverages sold or marketed by the Bottler.

3. "Competitive Products" shall mean all Beverages that are not Products.

4. "Facility" shall mean and include the entire premises of The City of Erie Golf Courses, including without limitation, all existing and future buildings, athletic facilities, all parking lots, grounds dining facilities, branded and unbranded food service outlets, concession and vending locations, players' benches, sidelines and locker rooms.

B. Responsibilities of Bottler. Bottler hereby promises that it shall:

1. Pay Account a monthly commission on cash collected (less tax, applicable fees and any government imposed deposits) on Beverage vending sales at the Facility. Commission rates and initial vending prices are set forth in Exhibit A.

C. Responsibilities of Account. Account hereby promises that it shall:

1. Cause the Products (specifically including, Coca-Cola, Coca-Cola Classic diet Coke, Spite, diet Sprite, Minute Maid juices and soft drinks, and Powerade, purchased from Bottler to be the only Beverages sold or made available at the facility, including all concessions, coolers and vending machine locations. No Competitive Projects shall be made available in the Facility.

2. Cause all menu boards, equipment (as defined herein) and concessions dispensing Beverages on the premises of the to carry advertising panels mentioning Projects which are clearly visible to the purchasing public.

3. Use and cause all concessionaires to use Coca-Cola trademark cups purchased from Bottler.

4. Grant exclusive Beverage advertising rights in the Facility to Bottler and not grant advertising rights at the Facility with respect to any Competitive Products.

5. Grant to Bottler the exclusive Beverage vending rights at the Facility. Account agrees that Bottler shall have the right to place a minimum of eight (8) Beverage vending machines in mutually agreed upon locations at the Facility and that ten percent (10%) of such Beverage vending machines shall vend 20 oz. bottled Products and ten percent (10%) of such Beverage vending machines shall vend 16 oz. bottled juice

Projects. Bottler agrees that all Beverage vending machines shall be equipped with dollar bill validators.

6. Allow access by Bottler personnel to change its advertising messages in the facility, such changes to be in Bottler's sole discretion and at bottler's expense.

7. Maintain sufficient insurance to adequately protect the respective interests of the parties hereto. Such policy or policies shall name Bottler as an additional insured and shall not be canceled or modified without thirty (30) days' notice by Account to Bottler in writing.

8. Grant to Bottler first right of refusal of any similar agreement regarding advertising and Beverage availability rights.

D. Equipment

1. During the Term, Bottler will loan to Account, pursuant to the terms of Bottler's equipment placement agreement, at no cost that Beverage dispensing equipment reasonably required and as mutually agreed upon to dispense Beverages at the Facility and any additional equipment reasonably required by Account in order to replace defective or worn out Beverage dispensing Equipment ("Equipment")

2. Account agrees that it will execute any UCC Financing Statements, or other documents evidencing Bottler's ownership of the Equipment, upon request of Bottler. The Equipment may not be removed from the Facility without Bottler's written consent and Account Agrees not to encumber the Equipment in any manner or permit the Equipment to be attached thereto except as authorized by Bottler. Account will be responsible to Bottler for any loss or damage to said Equipment, reasonable wear and tear excepted.

E. Indemnification

1. Account agrees to defend, indemnify and hold Bottler harmless from and against all claims, suits, liabilities, costs and expenses, including reasonable attorneys' fees, for any injury, damage or loss to persons, including death, whether they be third persons or employees of either of the parties hereto, or any injury, damage or loss of property arising out of its performance of this agreement.

3. This indemnity shall survive the termination of this agreement and shall not apply to any injury, damage or loss caused in whole by the negligence of Bottler.

F. Term and Termination

1. The term of this agreement shall be for a period of one (1) year from April 1st 2007 to March 1st, 2008 ("Term").

2. If account fails to perform any of the promises set forth in this Agreement, then as an option but not as its sole remedy. Bottler may terminate this agreement, and Account shall (1) return the Equipment to Bottler and (ii) pay to Bottler, within ten (10) days, a pro rata refund of the costs of refurbishing and installing the Equipment.

3. Notwithstanding the other provisions of this agreement, if any federal, state or local law, rule regulation or order prohibits, restricts, or in any manner interferes with the sale of advertising of Beverages at any time during the Term of this Agreement or if for any reason the use of the Facility declines, then as an option but not as its sole remedy. Bottler may terminate this Agreement and Account shall (i) return the Equipment to Bottler and (ii) pay to Bottler, within ten (10) days, a pro rata refund of the costs of refurbishing and installing the Equipment.

4. Account represent and warrants that it has full right and authority to enter into this Agreement and to grant and convey to Bottler the rights set forth herein. Upon expiration or revocation of such authority, then as an option but not its sole remedy. Bottler may terminate this Agreement and Account shall (I) return the Equipment to Bottler and (ii) pay to Bottler, within ten (10) days, a pro rata refund of the costs of refurbishing and installing the Equipment.

5. Bottler shall have the right to withhold and not pay further Sponsorship Fees or any other amounts which may become payable to Account pursuant to this agreement if (i) account has failed to perform its obligations hereunder, (ii) bottler's rights hereunder have been lost, limited or restricted, or (iii) there exists a bona fide dispute between the parties.

G. Miscellaneous. This Agreement and its Exhibits constitutes the entire understanding of the parties and no terms may be altered or waived except by the mutual written consent of both parties. This Agreement may not be assigned by or otherwise conveyed by Account without Bottler's written consent. Each of the parties hereto agrees that it will, in its performance of its obligations hereunder, fully comply with all applicable laws, regulations and ordinances of all relevant authorities and shall obtain all licenses, registrations or other approval required in order to fully perform its obligations hereunder.

(Signatures)

By Mr. González, Seconded by Mr. Jones, Resolved, etc.,

That the Mayor and other appropriate City officials are hereby authorized to execute an agreement with Coca-Cola Enterprises, Inc. to provide the exclusive advertising and beverage availability rights at downing Golf Course and J. C. Martin Golf Course for a one year term. Beverages mean all carbonated and non-carbonated, non-alcoholic beverages sold or marketed by the bottler. The bottler promises that it shall pay the City of Erie a monthly commission on cash collected in the amount of 35% of sales and a rebate of \$3.00 per case.

April 11, 2007. City Council adopt by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

By Mrs. Horan-Kunco, Seconded by Mr. Thompson, Resolved etc.,
That the following loan be formally approved as follows:

	<u>Amount</u>	<u>Term</u>
World Gutter Systems, Inc.	\$164,250	7 years

These funds have been made available through the Commonwealth of Pennsylvania Enterprise Zone Revolving Loan Fund and loan repayments. This loan will be charged against account number 310-0000-0000-1007. The interest rate is fixed at 5.0 per annum. A one-time loan processing fee of \$821.25 based on 1/2 of 1.0% of the amount financed) will be assessed to the client. Our funding is contingent upon a similar commitment from the Northwest Pennsylvania Regional Planning & Development Commission by and through the Small Business First loan program or another lender.

City Council further directs that the proper City officials are authorized to sign the necessary documents and agreements effectuating same.

April 11, 2007. City Council adopt by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

April 11, 2007. Signed by the President. Attested by the City Clerk.

April 11, 2007. City Council on motion of Mr. Thompson, Seconded by Mr. Schember, adjourned at 8:47 p.m. by yeas Council Members Cappabianca, González, Jones, Schember, Thompson and Jenkins-Husband. 6. Nays. 0.

Attest:

President of City Council

City Clerk