CITY COUNCIL
MEETING AGENDA
July 5, 2018

Marc D. Tall, Mayor
Ronald J. Beauchamp, Mayor Pro Tem
Ralph B. Blasier, Council Member
Michael R. Sattm, Council Member
Peggy O. Schumann, Council Member

Patrick S. Jordan, City Manager
Lisa M. Gilsh, City Clerk
Ralph B. K. Peterson, City Attorney

City Council Chambers located at: City Hall – 410 Ludington Street – Room C101 – Escanaba MI 49829

The Council has adopted a policy to use a Consent Agenda, when appropriate. All items with an asterisk (*) are considered routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which event, the item will be removed from the General Order of Business and considered in its normal sequence on the Agenda.

Regular Meeting
Thursday, July 5, 2018, at 7:00 p.m.

CALL TO ORDER
ROLL CALL
INVOCATION/PLEDGE OF ALLEGIANCE
APPROVAL/Correction(s) TO MINUTES – Regular Meetings – June 21, 2018
APPROVAL/ADJUSTMENTS TO THE AGENDA
CONFLICT OF INTEREST DECLARATION(S)
BRIEF PUBLIC COMMENT(S)
PUBLIC HEARINGS
UNFINISHED BUSINESS
NEW BUSINESS

1. First Reading – Ordinance No. 1199 - Ordinance to amend Chapter 27, Article II, Section 27-400, of the City of Escanaba Code of Ordinances, Traffic and Motor Vehicles.

   Explanation: Administration is recommending the Council amend Section 24-400 of the City Code of Ordinances, regarding Riding on sidewalks, and set July 19, 2018 as a public hearing and adoption of Ordinance No. 1199.

2. Approval – Parking Lot Lease for Elmer’s County Market – Controller’s Office.

   Explanation: Administration is recommending Council approval renewing the parking lot lease for an additional 10-year term, including the $500 per year lease fee.

3. Discussion – City Manager’s Contractual Moving Allowance.

   Explanation: A discussion will take place concerning the contractual moving allowance of current City Manager, Patrick Jordan.

APPOINTMENTS
BOARD, COMMISSION, AND COMMITTEE REPORTS
GENERAL PUBLIC COMMENT
ANNOUNCEMENTS
ADJOURNMENT

Respectfully Submitted

[Signature]
Patrick S. Jordan
City Manager
The meeting was called to order by the Honorable Mayor Marc D. Tall at 7:00 p.m. in the Council Chambers of City Hall located at 410 Ludington Street.

Present: Mayor Marc D. Tall, Council Members, Ralph B. Blasier, Peggy O. Schumann, Ronald J. Beauchamp, Ralph B. Blasier, and Michael R. Sattem.

Also Present: City Manager Patrick S. Jordan, City Attorney Russel Hall, City Clerk Lisa M. Glish, City Department Heads, media, and members of the public.

Clerk Glish led Council in the Pledge of Allegiance.

**APPROVAL/CORRECTION(S) TO MINUTES**

Beauchamp moved, Sattem seconded, to approve the Original Draft of the Regular Meeting minutes from May 17, 2018, which included Council Member Beauchamp’s full reading of his “Recollection of and Opinion on the Process of Filling the City Clerk Position”.

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

Ayes: Beauchamp, Sattem, Blaiser, Schumann
Nays: Tall

**MOTION PASSED.**

Schumann moved, Blaiser seconded, to approve Regular Meeting minutes from June 7, 2018 and Special Meeting Minutes from May 31, 2018 @ 4:00 P.M., May 31, 2018 @ 5:00 P.M., and June 4, 2018, as submitted.

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

Ayes: Schumann, Blaiser, Sattem, Beauchamp, Tall
Nays: None

**MOTION PASSED.**

**ADJUSTMENTS TO THE AGENDA**

Beauchamp moved, Sattem seconded, CARRIED UNANIMOUSLY, to approve the agenda as submitted.
CONFLICT OF INTEREST DECLARATION

Schumann stated that in years past years she has supported the Bonifas Art Center’s Music Mondays through sponsorship of her business, and plans to continue to do so in the future. Tall determined there wasn’t a conflict present.

BRIEF PUBLIC COMMENT

Sue Roll, Executive Director of the Bonifas Art Center, requested support of the Music Mondays Grant.

PUBLIC HEARINGS

1. Approval – Ordinance 1198 – Appropriations Ordinance Amendment.

A public hearing was conducted on an amendment to the current Appropriations Ordinance for the fiscal year ending June 30, 2018. An amendment is needed to balance out over and under expenditures within various departmental budgets for the 2017-18 fiscal years. This action is mandated by State law and adjusts budget accounts to help ensure that no individual line items are overrun.

City Controller Melissa Becotte briefly reviewed adjustments to the 2017/18 Appropriations Ordinance.

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

Hearing no public comment, Mayor Tall closed the public hearing.

PH-1 “By Council Member Schumann, seconded by Council Member Blasier;

Resolved, That Ordinance No. 1198, the Appropriations Ordinance Amendment, given its public hearing at this meeting, be and is hereby adopted and that it be published in accordance with the requirements of the City Charter."

Herewith Ordinance No. 1198 adopted by title:

"AN ORDINANCE TO MAKE APPROPRIATIONS AND CORRESPONDING REVENUES FOR THE YEAR ENDED JUNE 30, 2018."

Full text in Ordinance Record “K”.

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

Ayes: Schumann, Blaiser, Satterm, Beauchamp, Tall
Nays: None

RESOLUTION DECLARED ADOPTED.
UNFINISHED BUSINESS

1. Public Meeting – Use of Ludington Street Sidewalks.

Administration is seeking a discussion to take place concerning the use of bicycle and merchandise displays on Ludington Street sidewalks.

Tall stated that the two issues 1.) Bicycles on Ludington Street and 2.) Use of sidewalks on Ludington Street where to be split into two discussions.

A discussion took place concerning the different options and opinions concerning bicycle use on Ludington Street.

Jordan read his Staff Recommendation.

OB-1a Sattem moved, Schumann seconded, to remove "(a) No person shall ride a bicycle upon a sidewalk within the business district", from Sec. 27-400 in the Code of Ordinances, Riding on Sidewalks (6.18, 6.19), and keep "(b) When signs are erected on any sidewalk or street which prohibit the riding of bicycles thereon by any person, no person shall disobey such signs", and “(c) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.” Sec. 27-400 (6.18, 6.19) (b) and (c) are to be renumbered sequentially and kept in Sec. 27-400 for purposes of setting the guidelines for bicycle traffic on sidewalks moving forward.

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

Ayes: Sattem, Schumann, Beauchamp, Tall
Nays: Blaiser

MOTION CARRIED.

OB-1b Schumann moved, Blaiser seconded, to create a bicycle lane four (4) to eight (8) feet from buildings on Ludington Street.

Schumann amended her original motion, Beauchamp seconded, that along with the creation of the bicycle lane, administration is to present Council with a budget and time frame for the Public Works Department to complete the project.

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

Ayes: Schumann, Beauchamp, Blaiser, Sattem, Tall
Nays: None

MOTION CARRIED.
OB-1c After discussion, Blaiser moved, Schumann seconded, CARRIED UNANIMOUSLY, to uphold the current Sidewalk Use Regulations – Street Furnishings, Sidewalk Signs, Merchandise and Outdoor Dining (Food Service Only and/or Food Service with Alcohol) Policy and Procedure, adopted on August 18, 2011.

NEW BUSINESS


   Administration sought Council approval to purchase property and liability insurance coverage from the Michigan Municipal Risk Management Authority (MMRMA) in the amount of $218,314. This purchase was budgeted in the 2018-19 operating year budget.

   NB-1 Blaiser moved, Schumann seconded, to approve to purchase property and liability insurance coverage from the Michigan Municipal Risk Management Authority (MMRMA) in the amount of $218,314.

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

   Ayes: Blaiser, Schumann, Sattem, Beauchamp, Tall

   Nays: None

   MOTION CARRIED.

2. Approval – Resolution for Designation of Street Administrator – City Engineering.

   Administration recommended Council approval of selecting Public Works Director and City Engineer Robert Becotte as the City of Escanaba's Street Administrator which was required by the Michigan Department of Transportation per Public Act 51.

   NB-2 By Council Member Sattem, seconded by Council Member Blaiser:

   RESOLUTION FOR DESIGNATION OF STREET ADMINISTRATOR

   Whereas, Section 13(9) of Act 51, Public Acts of 1951 provided that each incorporated city and village to which funds are returned under the provisions of this section, that, “the responsibility for street improvements, maintenance, and traffic operations work, and the development, construction, or repair of off-street parking facilities and construction or repair of street lighting shall be coordinated by a single administrator to be designated by the governing body who shall be responsible for and shall represent the municipality in transactions with the State Transportation Department pursuant to this act.

   Therefore, be it resolved, that this Honorable Body designate Public Works Director and City Engineer Robert Becotte as the single Street Administrator for the City
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of Escanaba in all transactions with the State Transportation Department as provided in Section 13 of the Act.

Ayes: Blasier, Beauchamp, Schumann, Sattem, Tall
Nays: None

RESOLUTION DECLARED ADOPTED.


The UP Steam and Gas Engine Association is seeking Council approval of a resolution that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining a Charitable Gaming License from the State of Michigan. The UP Steam and Gas Engine Association will be conducting raffle fund raisers the upcoming year.

NB-3 Beauchamp moved, Sattem seconded, CARRIED UNANIMOUSLY, to resolve that that UP Steam and Gas Engine Association, is hereby recognized as a nonprofit organization operating in the community of the purpose of obtaining a charitable gaming license from the State of Michigan.

RESOLUTION DECLARED ADOPTED.


The Bonifas Art Center sought Council approval of a resolution supporting their grant application to the Michigan Council for Arts and Cultural Affairs seeking funds for the "Music Mondays" Summer Concert Series. If approved, the City of Escanaba would serve as the Administrator for the funds. Administration recommended approval.

NB-4 Schumann moved, seconded by Blaiser, CARRIED UNANIMOUSLY, the following resolution was adopted:

Resolution in Support of a Grant Application to the Michigan Council for Arts and Cultural Affairs

AT A MEETING OF THE CITY COUNCIL OF THE CITY OF ESCANABA, MICHIGAN, HELD ON JUNE 1, 2018

RESOLUTION - SUPPORTING THE GRANT APPLICATION TO THE MICHIGAN COUNCIL FOR ARTS AND CULTURAL AFFAIRS SEEKING MATCHING FUNDS FOR THE "MUSIC MONDAYS" SUMMER CONCERT SERIES.

WHEREAS, the City Council of the City of Escanaba, Michigan, does hereby find as follows:

WHEREAS, the City desires to support the cultural lives of area residents through
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opportunities to be exposed to new art and music;

WHEREAS, the City has an excellent partner in the Bonifas Arts Center to successfully organize and promote community events, and educate the public through music appreciation programming;

WHEREAS, the City will administer the grant funds, if awarded, as set forth in the application;

WHEREAS, the City has a policy detailing equal opportunity provisions for job applicants and public accommodations and agrees to conform to the Assurances and Guidelines set forth in the application;

NOW, THEREFORE, BE IT HEREBY PROCLAIMED by the City Council of the City of Escanaba, Michigan, that the grant application should be made to the Michigan Council for Arts and Cultural Affairs for the August 3, 2018 deadline.

RESOLUTION DECLARED ADOPTED.

5. Approval – South Water Tower Antennae Lease Agreement Extension.

Administration is seeking Council approval of a lease agreement extension with NSighttel Wireless, LLC, d/b/a Cellcom for an antennae array on the South Water Tower by the Civic Center for the amount of $1,500 per month, which would go into the water fund. This extended lease would be for fifteen (15) years from the approved date and shall include a two percent (2%) annual increase until the term of the lease expires.

NB-5 Sattem moved, Blaiser seconded, to approve a lease agreement extension with NSighttel Wireless, LLC, d/b/a Cellcom for an antennae array on the South Water Tower by the Civic Center.

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

Ayes: Sattem, Blaiser, Schumann, Beauchamp, Tall
Nays: None

MOTION CARRIED.


A discussion took place concerning the process which will be used to evaluate City Manager Patrick Jordan for his one-year evaluation.

It was decided that each Council Member will use the form Tall distributed as a guideline to individually evaluate the City Manager.

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

Satterm congratulated the High School Softball Team on their State Championship.

Beauchamp stated that Music Mondays begin in Ludington Park on Monday, June 25, 2018.

Schumann read the following statement as a response to Council Member Beauchamp’s Recollection of and Opinion on the Process of Filling the City Clerk Position.

“1. The hiring process began with an internal posting for the position in early March. The position was posted without the knowledge or consent of the City Council. Council therefore had no input as to the qualifications that were listed in the original job posting even though the City Clerk works directly for the City Council. It remains unclear who asked for the internal posting to be prepared, who authorized its release, and why this posting was not brought to council for prior review and approval.

The City Clerk had indicated that he was retiring in the near future. I agree the council should have had input and been notified before it was posted BECAUSE, it should have been posted far and wide to be SURE we had an opportunity to find the best qualified candidate. I take no offense in it being posted as we had an opportunity to expand, change or do anything as a council of 5 elected people.

2. The internal posting came to council’s attention for the first time when applications from within the city were distributed to council beginning on March 12th. Council was given a copy of the job posting a few days later at the request of a council member.

No argument here. Didn’t research date, but I’ll take Mr. Beauchamp’s word for it.

3. When the subject of posting the job externally was discussed by council at a later date, the qualifications for the position were reviewed for the first time. At that time, a recommendation was made to include a Certified Municipal Clerk (CMC) reference in the job description. Yet, that certification was deemed unnecessary by most council members, and therefore was not included in the job description.
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The recommendation was made by Mr. Beauchamp. In my experience when hiring for both the private and public sector I have found it best to be relatively broad in a job description so that you get a larger pool of applicants.

4. The matter of advertising the position was also discussed. The venues for advertising the position were set. The deadline was left as being open until the position was filled.

   I insisted that we use Indeed and other online venues as that is how people now search for positions. In my opinion we owe it to our constituents to make every attempt to find the largest pool of applicants.

5. After two weeks of running the ads, council had received a total of eighteen applications. A suggestion was made for council to close the application process early the following week. I specifically requested that the posting not be closed since the vast majority of the candidates to date lacked basic credentials. Nevertheless, the deadline was set and council members were asked to submit their rankings, of up to four candidates, to the Human Resources Director for final tabulation.

   People who are seeking positions visit sites like Indeed daily. We received applications from 18 people who felt they were qualified, some were some weren’t, but after two weeks I think we had received them from anyone who was available for employment in the time frame required to do our hiring.

6. Within days of one another, two council members emailed their rankings to the entire city council instead of the HR Director. Oversight or not, in my opinion these emails can be construed as attempts to build a consensus outside of an open meeting in violation of the Open Meetings Act.

   I was one of the people who hit reply all. This goes to show that "Nothing good comes of hitting reply all." It may not be an excuse, but I am a Macintosh user and I have to use a PC based product for council. I am still learning the intricacies of it. I spent a great deal of time reviewing the resumes and letters carefully over the course of the week(s.) I did some research and came to a list of four, but actually three that I thought were best qualified. We were told to list 4, so I sent 4. Sending the list to all members had no ill effect as I was the last one to do so. Plus, I am pretty up front and didn’t hear that it was a “secret ballot.” I am good at keeping things that must be kept confidential...confidential, but I am not a sneak or a secret person. I also trust other people and don’t misread things as underhanded unless I have had experience with them being underhanded.

7. When the final rankings were compiled by the HR Director and presented for discussion by council at a subsequent meeting, these same two council members then made and seconded a motion to throw out the rankings on the grounds that the
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total possible points did not add up, and that some council members had therefore cheated. The motion failed.

The points didn’t add up. As I understand, Mr. Beauchamp didn’t rank 4 candidates, but used all of his points for one person. I would never assume that when we had agreed, and we did agree, to send our top 4 candidates that someone was looking at it as “points” and not a list of 4. My understanding was that we were trying to get a consensus on 4 people to interview. How could we possibly know who we wanted to hire without interviewing them. Even the ranking I sent was just basically a list so that we could get to an interview process. In 35 years of hiring I can’t imagine hiring for a long term professional position without interviewing.

8. Interviews were later scheduled and conducted. During the interviews, an obvious conflict of interest for one of the candidates was brought to the attention of council. That candidate not only handled each and every one of the resumes and applications; she admitted to reading each of them.

Interviews were scheduled and conducted. Now here is where we really differ. A statement was made by Mr. Beauchamp that there was an “Obvious Conflict of Interest” for one of the candidates. In my opinion there was no conflict and there was absolutely no harm in anyone handling the resumes. With access to all the IT for the city I believe that there were other employees, for instance the clerk and his staff who had access to emails. Either way, Ms. Glish handling and forwarding as part of her job description was doing just that, handling and forwarding. Now, if one was altered or missing, now there would be a problem, but that didn’t happen. The resumes were not held under lock and key. For instance biased council members could have given other candidates the resumes, none of this had any bearing on the interviews or hiring process.

I will say that Mr. Beauchamp was, in my opinion, rather rude to two of the candidates and showed much favor to one. It was disappointing and almost embarrassing to me. It appeared to me that his mind was made up prior to the interview process.

I personally was open to all candidates interviewed, but was most impressed by two with Ms. Glish being the standout.

9. At another meeting, when it was time for council to decide how to proceed, once again the same two council members who emailed their rankings to council and later moved to throw out the overall rankings, moved to offer the position to the lower ranked candidate with the conflict of interest.

I addressed the sending to all, which in no way constituted anything other than hitting a wrong tab on an unfamiliar email system.

I am always willing to move or second things so we can discuss them. Roberts rules say you must do that. Once again we did not discuss that
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our rankings as a “secret ballot.” (If we did I missed it.) I respect each
council member’s intelligence and I don’t think my opinion could sway
them away from what they see with your own eyes. It was to get to a point
where we could interview qualified candidates. The ranking was skewed
however by Mr. Beauchamp ranking only one 4 times and it was only to
get to a point of interviewing. The interview was the most crucial part.

10. During discussion, the point was raised that for more than a decade previous
councils and administrations had invested a lot of time and public money in
preparing the Deputy Clerk for the clerk position when the City Clerk retires. A
counterpoint was made which essentially expressed the opinion that this council
knows best.

I have found in my 35 years of hiring, again, in the private and public
sector, that it’s best to hire a person for the future, not the past. Yes, the
previous clerk, manager or council did things that at the time they saw as
the best interest. Now, for me to disregard the ever changing world of
voting software, hardware and technology and not move to hire the best
qualified candidate would be just plain wrong. In my candidacy I swore to
make tough decisions based on the best interest of the future of our city
and that is exactly what I did.

11. AND LASTLY... After rejecting a council member’s request to add the Certified
Municipal Clerk (CIVIC) designation to the job posting, and after rejecting the only
candidate that already has the CMC designation and city clerk experience, it is quite
unbelievable to say the least, that the newly hired city clerk will be required to obtain
a CIVIC designation in the coming years.

There is a reason that we have an unequal number of people on councils
and boards in our community. I learned in serving on the School Board
that you can’t always get what you want. There were many times that I
didn’t get things my way on the school board, but I had enough humility to
know that everyone serving was looking for the best interest of our
students and community and I accepted it.

Whether or not someone has a designation is not always a valid reason.
In all my years of hiring, I look at resumes, I check references, I observe
and I interview. I have passed over many people with letters after their
name for another person. Our world is ever changing. Like I stated during
the discussion when we hired Ms. Bougie-Glish, Nancy Kolich, our
amazing and competent County Clerk was not a clerk prior to her first
election, yet she has served very well and had incredible success. I spoke
with Nancy about this position both prior to and within an hour after the
hiring. I asked what it takes to be a good clerk. I considered her input
when making a decision.

In my opinion, based on the circumstances I have just summarized, the integrity of this
entire hiring process is highly questionable. It has demonstrated a serious lack of
council leadership and stinks of improprieties. Such decisions will only erode employee
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morale, make it more difficult to fill other city vacancies such as the city assessor position, and will drastically reduce the level of confidence the residents of Escanaba will have in the judgement of this city council in the future.

There is no question in my mind that we hired the applicant who was the best qualified for the job.

The only thing that stinks, In my opinion, is the inability of a Mr. Beauchamp to accept that others who were duly elected differ in opinion from him and that his half truths whether admitted to “minutes evidence” or not are still just what they are half truths and accusations. The citizens of Escanaba can be VERY confident in the judgement of of our council members even though we may not always agree.

Inasmuch as this situation looks like a lawsuit waiting to happen, I am abstaining from voting on the matter of the new city clerk’s terms and conditions.

This situation is not a lawsuit waiting to happen. It will just be a little social media circus until the decision of the majority of the council is accepted and we move our city forward.

I have served this city through business, boards, community organizations and elected positions. I have acted with integrity and sound judgement. I stand by my motion and the hiring of the best qualified candidate for the position of City Clerk.

Sincerely,
Peggy O’Connell Schumann
Business Owner, Community Leader and Council member
City of Escanaba
June 19, 2018

Jordan stated that Notary services will now be available through the Clerk’s Office for a $10 fee per service.

Hearing no further public comment, the Council adjourned at 8:27 p.m.

Respectfully submitted

Lisa M. Glish
City Clerk

Approved: _____________________________

Marc D. Tall, Mayor
ORDINANCE NO. 1199

AN ORDINANCE TO AMEND CHAPTER 27 - TRAFFIC AND MOTOR VEHICLES
ARTICLE II, SECTION 27-400

THE CITY OF ESCANABA ORDAINS:

CHAPTER I

ARTICLE II, UNIFORM TRAFFIC CODE

Division Six (6), Section 27-400

is hereby amended to read as follows:

Sec. 27-400. Riding on sidewalks.

a) When signs are erected on any sidewalk or street which prohibit the riding of bicycles thereon by any person, no person shall disobey such signs.

b) Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrians.

CHAPTER II
SAVINGS CLAUSE

If any section, subsection, sentence, clause or phrase of the within Ordinance is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.

CHAPTER III
REPEALING CHAPTER

All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

CHAPTER IV
EFFECTIVE DATE

This Ordinance shall be in full force and effect ten (10) days after its passage and publication.

APPROVED:

Ralph B.K. Peterson
City Attorney

APPROVED:

Marc D. Tall
Mayor
ATTEST:

Lisa M. Glish,
City Clerk

I hereby certify that the above and foregoing Ordinance was duly passed and adopted at a meeting of the City Council held on July XX, 2018, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on July XX, 2018.

Lisa M. Glish,
City Clerk
MEMORANDUM

TO: Patrick Jordan, City Manager  
     Lisa Glish, City Clerk

FROM: Melissa Becotte, City Controller

Subject: Lease

In 1993, the City entered into a 25 year lease agreement with Mel and Elmer’s to provide a parking lot on City property on the South side of their building. Elmer’s maintains the lot.

The lease expires 7/30/18. Elmer’s has requested to renew the lease for a 10 year term with all other terms of the lease remaining the same, including the $500 per year lease fee.

I am recommending approval of the attached lease renewal with Elmer’s County Market. If there are any questions, please feel free to contact me. Thank you!
LEASE OF PARKING LOT

This lease is made as of the 30th day of July, 2018, between the CITY OF ESCANABA, a municipal corporation, of 410 Ludington Street, Escanaba, MI, 49829, hereinafter referred to as “Lessor” and Elmer’s County Market, a Michigan corporation, of 412 North Lincoln Road, Escanaba, MI 49829, hereinafter referred to as “Lessee”.

Lessor, in consideration of the rent later specified to be paid by Lessee and the covenants and agreements later contained, by the Lessee to be performed, has let unto the Lessee those certain premises in the City of Escanaba, State of Michigan, described on Exhibit “A”, which exhibit is attached hereto and incorporated herein as if set forth at length.

The parties hereto agree as follows:

1. **Term:**

   The term of this lease shall be from the effective date of August 1, 2018, and ending on July 31, 2028, except as otherwise subsequently provided.

2. **Rental:**

   Lessee agrees to pay to Lessor as rent for the premises the sum of Five Hundred ($500.00) Dollars, payable on or before August 1st of each year that said lease shall be in effect. Rent shall be paid in advance for the leased period.

3. **Purpose:**

   The premises shall be used for parking facilities and no other purpose without the prior written consent of Lessor.

4. **Indemnification:**

   Lessee shall indemnify Lessor from all loss, costs and expense arising out of any liability, or claim of liability, for injury or damages to persons or property sustained, or claimed to have been sustained, by anyone by reason of the operations, use or occupation of the facilities described above by Lessee, whether such use is authorized or not, or by any act or omission of Lessee or any of its officers, agents, employees, guests, patrons or invitees, and Lessee shall pay all and any damage to the property of the Lessor, or loss of theft of such property, done or cause by those persons.

5. **Insurance:**

   Lessee agrees to deliver to Lessor, upon the execution of this Lease, a copy of a continuing public liability and property damage insurance policy satisfactory to Lessor indemnifying and holding Lessor harmless against any and all claims in the amount of $500,000.00 for injury to any one person and $50,000.00 for property
damage and shall keep the same in force during the term of this Lease. Said insurance policy shall provide that the Lessor is named as an additional insured and that the Lessor shall receive 20 days notice from the insurance carrier prior to the cancellation of such policy.

6. **Repairs and Maintenance:**

Lessee represents that Lessee has inspected and examined the demised premises and accepts them in their present condition, and agrees that Lessor shall not be required to make any improvements or repairs upon the premises demised or any part of them; Lessee agrees to make all improvements and repairs at Lessee’s sole cost and expense, and agrees to keep the premises safe and in good order and condition at all times during the term, and upon expiration of this Lease or at any sooner termination, the Lessee will quit and surrender possession of the premises peaceable and in as good order and condition as the premises were at the commencement of the term, reasonable wear, tear and damage by the elements excepted; Lessee further agrees to leave the premises free from all nuisance and dangerous and defective conditions.

Lessee agrees that it shall maintain said parking facilities clean and clear of all debris and brush. Lessee agrees that it will be responsible for any and all snow removal and plowing required for said parking facilities. Lessee agrees that it will be responsible for occasional sweeping of said parking lot to remove dirt, broken glass and debris. Lessee agrees that it will be responsible for occasional salting of said facilities, if ice requires the same.

7. **Termination by Lessor:**

Lessor may terminate this Lease at any time, if it should be determined by its city council that public necessity and convenience require it to do so, by serving upon Lessee a written notice of termination, which notice shall be served at least 180 days prior to the date in the notice named for such termination.

8. **Default:**

In the event that Lessee shall be in default in the performance of any of the terms or conditions agreed to be kept and performed by Lessee, then in that event Lessor may terminate and end this Lease immediately, and Lessor may enter upon the premises and remove all persons and property; in the event Lessor shall bring legal action to enforce any of the terms of this Lease, or to obtain possession of the premises by reason of any default of Lessee, or otherwise, Lessee agrees to pay Lessor all costs of such legal action.
9. **Successors in Interest:**

All of the terms, covenants and conditions contained herein shall continue, and bind any and all successors in interest and assigns of Lessee.

In witness whereof, the City of Escanaba, by its Mayor, and Lessee, Elmer’s County Market, have caused the respective names to be signed to this instrument the day and year first above written.

City of Escanaba: Attest:

By ____________________________

Its Mayor

Elmer’s County Market: Attest:

By ____________________________

Its President
EMPLOYMENT AGREEMENT

This agreement, subsequently called "Agreement" is entered into this _____ day of __________, 2017, between the CITY OF ESCANABA, State of Michigan, a Municipal Corporation, subsequently called "City" and PATRICK S. JORDAN, subsequently called "City Manager", both of whom understand as follows:

Witness:

The City Council is empowered to appoint and remove the City Manager as provided for in the City Charter; and

The City Council desires to employ the services of Patrick S. Jordan as the City Manager of the City of Escanaba; and

It is the desire of the City to:

(1) Secure and retain the services of the City Manager and to provide inducement for him to remain in such employment;
(2) To make possible full work productivity by assuring the City Manager's morale and peace of mind with respect to future security;
(3) To act as a deterrent against malfeasance or dishonesty for personal gain on the part of the City Manager;
(4) To provide a means for terminating the City Manager's service at such time as he may be unable to fully discharge his duties due to disability or when the City may otherwise desire to terminate his employment; and

Patrick S. Jordan desires to accept employment as the City Manager of the City;

Now, therefore, in consideration of the mutual covenants herein contained, the parties agree as follows:

Section 1 - Duties

The City agrees to employ Patrick S. Jordan as the City Manager of the City to perform the functions and duties of that office as set forth in the City Charter and ordinances and to perform other legally permissible duties and functions. The City Manager shall devote his full attention and effort to the office and perform the mentioned duties and functions in a professional manner. The City Manager shall not engage in any other business activity during the term of this agreement without prior approval of the City Council, which approval shall not unreasonably be withheld.
Section 2 - Term

(a) The City hereby employs and the City Manager hereby accepts employment as the City Manager for an indefinite term commencing on the 26th day of June, 2017.

During the first six months of employment the City Manager shall be a probationary employee and may be terminated without any severance pay for any reason or for no reason during the probationary period.

The City Council shall review the City Manager’s performance under this agreement during the month of October 2017 and on an annual basis on or before June 30 of each year, beginning June of 2018 and each ensuing year thereafter. If no review is undertaken, performance shall be considered satisfactory.

(b) The City Manager shall be entitled to hospitalization, surgical, dental, vision and comprehensive medical insurance for himself and his dependents. The City agrees to pay the premium thereon on the same basis as is provided to all other non-union new employees. However during the first six months of this contract the City Manager shall opt out of City medical insurance and in lieu thereof the City will reimburse the City Manager $1,000.00 per month during said initial six month period.

The City Manager shall be entitled to paid time off as provided to new appointed department heads as per Non-Union Employees Handbook and Uniform Fringe Benefit Program as amended with the exception that the City Manager shall be credited with ten (10) years of service in computing the Paid Time Off benefits. The City Manager shall be entitled to holidays, workers’ compensation, unemployment compensation and disability income insurance all as provided to new appointed department heads as per Non-Union Employees Handbook and Uniform Fringe Benefit Program as amended.

(c) The City shall contribute per current city policy (Non-Union Employees Handbook and Uniform Fringe Benefit Program as amended) to the M.E.R.S. defined contribution retirement account on behalf of the City Manager.

(d) The City Manager is an “at will” employee and shall serve at the pleasure of the City Council and may be terminated without cause. City Council is only limited by the provisions of the City Charter. In the event of termination by the City Council after the probationary period, the City agrees that the provisions of Section 4 of this agreement shall govern said termination.

(e) Nothing in this agreement shall prevent, limit or otherwise interfere with the right of the City Manager to resign at any time from his position with the City. The City Manager agrees to provide the City with 60 days notice of said termination. Said termination of employment by the City Manager shall be subject to the provisions set forth in Section 4 (d) of this agreement.
Section 3 — Administrative Leave

The City Council may place the City Manager on administrative leave with full pay and benefits at any time during the term of this agreement.

Section 4 — Termination and Severance Pay

(a) Except as otherwise provided in Section 4 (b) of this agreement, in the event the City Council terminates the employment of the City Manager, and during such time that the City Manager is willing and able to perform his duties under this agreement, the City shall pay to the City Manager a severance payment in an amount equal to the last six months salary previously budgeted, appropriated and approved; provided, however, that the salary shall be paid over a six month period and shall cease during said six months upon the City Manager securing other employment. In addition to said salary, the City Manager shall receive medical benefits or insurance opt-out reimbursement for 180 calendar days after the date of termination. Said benefits shall cease upon the City Manager securing other employment. The City shall maintain and pay for said health, medical disability and life insurance in such amounts and on such terms as have been received at the time of such termination; however, no other additional benefits shall accrue during this 180 calendar day period. In addition to said salary and medical benefits, the City Manager shall be entitled to payment for all accrued benefits.

(b) Notwithstanding paragraph subsection (a) above, the following reasons shall constitute grounds to terminate the employment of the City Manager without severance pay or medical benefits:

(i) a willful breach of this agreement or the willful and repeated neglect by the City Manager to perform duties that he is required to perform;
(ii) conviction of any criminal act relating to employment with the City;
(iii) conduct relating to City employment which, while not necessarily criminal in nature, violates the City’s established work rules or standards of conduct in a continuous substantial manner;
(iv) conviction of a felony;
(v) termination of employment by City Manager.

(c) Prior to the time that the City Council terminates the City Manager without severance pay for any of the reasons set forth in paragraph (b) above, the City Council shall provide the City Manager with written notice of proposed termination which contains the reason and factual basis for such action. Within 30 days of such notice, the City Manager may request an opportunity to respond to the reasons and factual basis provided by the City Council. If such a request to respond is made, the City Council shall conduct a meeting, which may be informal in nature, at which the City Manager and/or his representative may respond to the notice of proposed termination. At such meeting, the City Manager may be represented by an attorney of his choice and
present evidence or information relevant to the reasons and factual basis set forth in the notice of proposed termination.

(d) In the event the City Manager voluntarily resigns his position, the City manager shall give the City Council written notice at least 60 calendar days prior to the last work day, unless the City Council and City Manager otherwise agree. If the City Manager fails to provide such notice to the City council, any right to accrued benefits shall terminate.

Manager and the City will cooperate to provide for an orderly transition. Specific responsibilities during such transition may be specified in a written separation agreement.

Section 5 – Disability

If the City Manager is disabled or otherwise unable to perform his duties because of sickness, non-work related accident, non-work related injury, mental incapacity or ill health, he shall be eligible for disability leave upon exhausting all accrued paid time off. Disability leave shall be unpaid and shall be at the sole discretion of the City Council for a time period of up to six months. If, upon the expiration of the disability leave approved by the City Council, the City Manager is unable to return to work at that time, the City Council shall have the option to terminate the employment of the City Manager without further liability on the part of the City of Escanaba.

Section 6 – Performance Evaluation

The City Council shall review and evaluate in writing the performance of the City Manager on or before June 30 of each year. That review and evaluation shall be in accordance with specific criteria developed in consultation with the City Council and the City Manager. That criteria may be added to or deleted from as the City Manager from time to time may determine, in consultation with the City Council.

Section 7 – Salary

The City agrees to pay the City Manager for his services rendered pursuant to this agreement the sum of Ninety-five Thousand ($95,000.00) Dollars per annum during the probationary period. After successfully completing the probationary period said salary shall be One Hundred Thousand ($100,000.00) Dollars per annum.

Section 8 – Other Benefits

All applicable provisions of the “Personnel Policies for new Non-Bargaining Unit Employees” as they may be amended from time to time, shall apply to the City Manager as they would to other employees of the City, except as the terms and conditions of this agreement may preclude them or modify them.
Section 9 – Moving Expense

The City shall reimburse the City Manager for moving expense, up to Five Thousand ($5,000.00) Dollars, upon presentation of billings from a moving company with regard to the move from Muskegon, Michigan, to Escanaba, Michigan.

Section 10 – Vehicle

The City will provide the use of a motor pool vehicle for the City Manager for City business. In the event that the City Manager shall use his personal vehicle for City business, then in that event a vehicle allowance, mileage reimbursement or fuel only reimbursement shall be provided to the City Manager pursuant to the personnel policies for non-bargaining unit employees.

Section 11 – Professional Development

The City agrees to budget and pay for the State and National City Manager’s Association dues. The City shall also pay the dues for one local service organization.

Section 12 – Indemnification

The City shall defend and indemnify the City Manager against any action, including but not limited to any tort, professional liability claim or demand, or other noncriminal legal, equitable or administrative action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of the City Manager’s duties as an employee or officer of the City. In addition, the City shall pay the reasonable expenses for the travel, lodging, meals and lost work time of the City Manager should the City Manager be subject to such an action. The City shall be responsible for and have authority to compromise and settle any action, with prior consultation with the City Manager, and pay the amount of any settlement or judgment rendered on that action. The City Manager shall cooperate fully with the City in the settlement, compromise, preparation of the defense, or trial of any such action. The City will be responsible for any and all costs and attorney’s fees associated with this Section 12. The provisions of this Section 12 shall survive termination of the City Manager’s employment or termination of this agreement.

Section 13 – Bonding

The City shall bear the full cost of any fidelity or other bonds required by the City Manager under any law or ordinance.
Section 14 – General Provisions

(a) The text here shall constitute the entire agreement between the parties.
(b) If any provision, or any portion of any provision, contained in this agreement is held unconstitutional, invalid, or unenforceable, the remainder of this agreement, or any portion of it, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS, the City of Escanaba has caused this agreement to be signed and executed on its behalf by its Council Mayor and the City Manager has signed and executed this agreement, both in duplicate, the day and year first above written.

THE CITY OF ESCANABA

Dated: 6/27/17

By: Marc Tall
    Mayor

THE CITY MANAGER

Dated: 6/27/17

Patrick S. Jordan