



CITY COUNCIL

MEETING AGENDA

November 21, 2019

Marc D. Tall, Mayor
Peggy O'Connell, Mayor Pro Tem
Ralph B. Blasier, Council Member
Tyler D. DuBord, Council Member
Karen S. Moore, Council Member

Patrick S. Jordan, City Manager
Phil DeMay, City Clerk
John Bergman, 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, November 21, 2019, at 7:00 p.m.

CALL TO ORDER

ROLL CALL

INVOCATION/PLEDGE OF ALLEGIANCE

APPROVAL/CORRECTION(S) TO MINUTES –

Regular Meeting – November 7, 2019

Special Meeting – November 11, 2019

APPROVAL/ADJUSTMENTS TO THE AGENDA

CONFLICT OF INTEREST DECLARATION(S)

BRIEF PUBLIC COMMENT(S)

PUBLIC HEARINGS

1. Second Reading, Public Hearing and Adoption of Ordinance No. 1215, An Ordinance to Amend Chapter XIII of Appendix A as Codified Under the Code of Ordinances with the addition of Self-Storage Units.

Explanation: Administration is requesting the City Council to consider approval and adoption of Ordinance No. 1215 An Ordinance to Amend Chapter XIII of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units. The Planning Commission is recommending that Self-Storage Unites be added to the list of Principal Uses Permitted by Right in the F – Light Manufacturing (Chapter 13).

2. Second Reading, Public Hearing and Adoption of Ordinance No. 1216, An Ordinance to Amend Chapter XV of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units.

Explanation: Administration is requesting the City Council to consider approval and adoption of Ordinance No. 1216 An Ordinance to Amend Chapter XV of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units. The Planning Commission is recommending that Self-Storage Unites be added to the list of Principal Uses Permitted by Right in the G – Heavy Manufacturing (Chapter 15).

UNFINISHED BUSINESS

NEW BUSINESS

1. Approval - Resolution - City Election from the Delta County Board of Canvassers – Clerk.

Explanation: Administration is seeking Council approval of a resolution to approve the election outcomes as certified by the Delta County Board of Canvassers. This resolution is a requirement stated in the City Charter, Chapter III, Section 12 that the City Clerk must give notice of the November 5, 2019, City Council Election results.

2. Approval – MERS Participation Agreement Amendment – Controller.

Explanation: Administration is seeking Council approval of an amendment to the MERS 457 Participation Agreement. The City Manager's new contract provides for a 10% contribution into a 457 deferred compensation account paid by the City. The MERS 457 plan needs to be amended to allow for the employer contributions.

3. Approval – Pre Construction Inspection for Asbestos, Lead, & Cadmium – Wastewater.

Explanation: Administration is seeking Council approval to retain and hire Pearson Asbestos Abatement, Inc., of Escanaba, MI to conduct the work as outlined in the attached specification sheet at a cost not to exceed \$6,000.00.

Agenda –November 21, 2019

4. **First Reading of Ordinance No. 1217, An Ordinance Amending Ordinance No. 1028, by Adding Chapter 22 to Provide Provisions for the Regulation for Safe, Effective and Efficient Use of Wind Energy Systems and Setting the Date of Thursday, December 5, 2019, for Second Reading, Public Hearing, and Adoption.**

Explanation: Administration is requesting the City Council to consider this the first reading of Ordinance No. 1217, An Ordinance Amending Ordinance No. 1028, by Adding Chapter 22 to Provide Provisions for the Regulation for Safe, Effective and Efficient Use of Wind Energy Systems, Administration is requesting that the City Council set December 5, 2019, for the second reading, public hearing and adoption of Ordinance No. 1217.

5. **Approval – Consideration of Request to Purchase City-Owned Parcel (Partial).**

Explanation – Administration received a request from a resident to purchase a small carved-out section of a city-owned parcel adjacent to their residential lot. This parcel is zoned residential and is part of the City's 5-year Rec Plan. There has been migratory bird grant moneys spent on this lot.

6. **Closed Session – Update on the Dark Store Issue – Manager.**

Explanation: Administration is seeking to go into Closed Session to update City Council on the Dark Store Issue.

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

Respectfully Submitted,



Patrick S. Jordan
City Manager

**OFFICIAL PROCEEDINGS
CITY COUNCIL
CITY OF ESCANABA, MICHIGAN
Regular Council Meeting
Thursday, November 7, 2019**

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, Ronald J. Beauchamp, Ralph B. Blasier, Peggy O'Connell, and Michael R. Sattem

Absent: None

Also Present: City Manager Patrick S. Jordan, City Clerk Phil DeMay, Department Heads, media, and members of the public.

Pastor Weylund Heimer of New Life Assembly of God Church led the invocation and City Clerk DeMay led Council in the Pledge of Allegiance.

Sattem moved, O'Connell seconded, **CARRIED UNANIMOUSLY**, to approve Regular Meeting minutes from October 17, 2019, as submitted.

ADJUSTMENTS TO THE AGENDA

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

CONFLICT OF INTEREST DECLARATION – None

BRIEF PUBLIC COMMENT

Ed Legault – Executive Director of the Downtown Development Authority – Thanked Council Members Beauchamp and Sattem for their support and time served on Council. Mr. Legault discussed New Business items four and five.

PUBLIC HEARINGS – None

UNFINISHED BUSINESS – None

NEW BUSINESS

NB-1 First Reading of Ordinance No. 1215, An Ordinance to Amend Chapter XIII of Appendix A as Codified Under the Code of Ordinances with the addition of Self-Storage Units and Setting the Date of Thursday, November 21, 2019, for Second Reading, Public Hearing, and Adoption.

Administration requested the City Council to consider this the first reading of Ordinance No. 1215, An Ordinance to Amend Chapter XIII of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units. Additionally, Administration requested that the City Council set November 21, 2019, for the second reading, public hearing and adoption of Ordinance No. 1215.

NB-1 Sattem moved, O’Connell seconded, **CARRIED UNANIMOUSLY**, to consider this the first reading of Ordinance No. 1215, An Ordinance to Amend Chapter XIII of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units and to set November 21, 2019, for the second reading, public hearing and adoption of Ordinance No. 1215.

NB-2 First Reading of Ordinance No. 1216, An Ordinance to Amend Chapter XV of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units and Setting the Date of Thursday, November 21, 2019, for Second Reading, Public Hearing, and Adoption.

Administration requested the City Council to consider this the first reading of Ordinance No. 1216, An Ordinance to Amend Chapter XV of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units. Additionally, Administration requested that the City Council set November 21, 2019, for the second reading, public hearing and adoption of Ordinance No. 1216.

NB-2 Blasier moved, O’Connell seconded, **CARRIED UNANIMOUSLY**, to consider this the first reading of Ordinance No. 1216, An Ordinance to Amend Chapter XV of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units and to set November 21, 2019, for the second reading, public hearing and adoption of Ordinance No. 1216.

NB-3 Update – Rural Energy Savings Plan - Electric.

Administration provided an update on the Rural Energy Savings Program (RESP) funding. Any funds received would be loaned to our customers for energy savings projects.

Mike Furmanski – Electric Department Head – discussed the Rural Energy Savings Program funding. The City of Escanaba Electrical Department can borrow the money for zero percent interest and then turn around and lend it to our customers for up to three percent interest.

NB-4 Approval – DDA Parking Lot Lease – Controller.

Administration sought council approval of a lease agreement with the DDA for 8 downtown parking lots. The lease would be for a 10 year term with a rental payment of \$1.00 per year. The DDA would be responsible for paying the cost of all snow removal up to \$15,000 per year. They are also required to stripe the lots each year and keep them free of debris. This would be a 10 year lease.

NB-6 O’Connell moved, Blasier seconded, to approve of a lease agreement with the DDA for 8 downtown parking lots for a 10 year term with a rental payment of \$1.00 per year, with the DDA being responsible for paying the cost of all snow removal up to \$15,000 per year and to stripe the lots each year and keep them free of debris.

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

Ayes: O’Connell, Blasier, Beauchamp, Sattem, Mayor Tall
Nays: None

MOTION CARRIED.

NB-5 Approval – DDA Center Court Lease - Controller.

Administration sought council approval of a lease agreement with the DDA for Center Court. The lease would be for a 10 year term with a rental payment of \$1.00 per year. The terms of the contract have not changed. The City is responsible for the structural supports, roof and exterior walls while the DDA is responsible for the normal upkeep of the building as well as things like doors, windows and plumbing. This would be a 10 year lease.

NB-5 Blasier moved, Sattem seconded, **CARRIED UNANIMOUSLY**, to postpone this item until they hear back from a contractor or city employee of the potential costs to fix items at the DDA building.

NB-6 Discussion – Interim Manager and Possible Appointment.

NB-6 Tall moved, Blasier seconded, to approve the appointment of Robert LaMarche to Interim City Manager until the position is permanently filled.

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

Ayes: Tall, Blasier, Beauchamp, O’Connell, Sattem
Nays: None

MOTION CARRIED.

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

William Gasman – Thanked Council Member Beauchamp and Sattlem for the great job they did and their professionalism. Mr. Gasman also recognized all our veterans for their service.

James Hellerman – Thanked Council Member Beauchamp and Sattlem for their time served on council.

ANNOUNCEMENTS

- Mayor Tall presented Council Member Beauchamp and Sattlem with a plaque of “Outstanding Service Award” for their time spent on City Council;
- Mayor Tall read the following Proclamation:
 - Hospice and Palliative Care Month Proclamation;
- Mike Sattlem thanked Council and the City of Escanaba residents for allowing him to serve on their behalf.

Hearing no further public comment, Sattlem moved the Council adjourned at 7:39 p.m.

Respectfully submitted

Phil DeMay
City Clerk

Approved: _____
Marc D. Tall, Mayor

**City of Escanaba
Special Council Meeting
Monday, November 11, 2019**

Pursuant to Section 5, Chapter II, of the City Charter, and special meeting notice posted on October 25, 2019, the Council of the City of Escanaba convened in special session in the Council Chambers of City Hall located at 410 Ludington Street, Room C101 at 7:30 p.m. on the above named date for the purpose of reorganization. City Clerk Phil DeMay, opened the meeting and called the roll.

Present: Council Members elect, Tyler D. DuBord and Karen S. Moore, Council Members Ralph B. Blasier, Peggy O'Connell and Marc D. Tall

Absent: None.

Also Present: Members of the audience and media.

ADJUSTMENTS TO THE AGENDA

Blasier moved, O'Connell seconded, **CARRIED UNANIMOUSLY**, to add New Business item 7, a discussion about City Manager position.

O'Connell moved, Blasier seconded, **CARRIED UNANIMOUSLY**, to approve the City Council Agenda as amended.

NEW BUSINESS

NB-1 Oath of Office to newly elected Council Members.

City Clerk Phil DeMay administered the oaths of office to newly elected Council Members Tyler D. DuBord and Karen S. Moore.

NB-2 Selection of Mayor and Mayor Pro Tem

Chapter II, Section 5 of the City Charter stated that following each municipal election the Council, shall elect, by ballot, one of its members Mayor, who shall be the presiding officer and executive head of the City, and perform such other duties as are, or may be imposed or authorized by the laws of the state or the City Charter.

Council Member Blasier placed in nomination the name of Council Member Tall for Mayor.

City Clerk DeMay called for any further nominations for Mayor.

City Clerk DeMay called for any further nominations for Mayor.

No further nominations for Mayor were heard.

Without objections, nominations for Mayor were closed.

NB-2 Council Members cast the following votes for Council Member Tall to serve as Mayor for the City of Escanaba.

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

Ayes: Blasier, O'Connell, Moore, DuBord, Tall
Nays: None

NOMINATION CARRIED.

At that time, since Council Member Tall received a majority vote for Mayor, City Clerk DeMay presented the gavel to Mayor Tall who then presided over the meeting.

NB-3 Selection of Mayor Pro-Tem.

Chapter II, Section 5 of the City Charter states that following each municipal election the Council, shall elect, by ballot, one of its members Mayor Pro Tem, who, during the absence or disability of the Mayor to perform his duties, shall act in the name and instead of the Mayor, and shall, during the time of such absence or disability exercise all the duties and possess all the powers of the Mayor.

Mayor Tall called for nominations for Mayor Pro Tem.

Council Member Blasier placed in nomination the name of Council Member O'Connell for Mayor Pro Tem.

Mayor Tall called for any further nominations for Mayor Pro Tem.

None were heard.

Without objections, nominations for Mayor Pro Tem were closed.

NB-3 Council Members cast the following votes for Council Member O'Connell to serve as Mayor Pro Tem for the City of Escanaba.

Ayes: Blasier, Moore, DuBord, O'Connell, Mayor Tall
Nays: None

NOMINATION CARRIED.

NB-4 Appointments to Board of Equalization and Review.

The Board of Review heard appeals from all property owners who feel their

property tax has been inaccurately assessed and has the power to make the appropriate corrections in the tax roll. The Board of Review consists of the Mayor and four tax-paying electors of the City. City Clerk DeMay advised the current members Dennis J. Pearson, Judith Schroeder, William A. LaMarch, and Jason Neumeier wished to be reappointed.

NB-4 Blasier moved, Moore seconded, **CARRIED UNANIMOUSLY**, to reappoint Dennis J. Pearson, Judith Schroeder, William A. LaMarch, Jason Neumeier, and Mayor Tall to the Board of Equalization and Review.

NB-5 Appointment to Downtown Development Authority (DDA).

The Downtown Development Authority Board of Trustee's was made up of DDA District Business Owners, residents, the City Manager and the Mayor. Appointment of the Mayor to the DDA Board of Trustee's was required.

NB-5 Blasier moved, O'Connell seconded, **CARRIED UNANIMOUSLY**, to approve Mayor Tall to serve as a member of the DDA.

NB-6 Selection of Boards and Commission Liaison Assignments.

Mayor Tall, with consensus of Council, continued with the current Council liaisons to Boards and Commissions of the City. The purpose of the liaison program was to ensure maintain effective communications between the Council and Boards and Commissions.

- Council Member O'Connell to the Board of Appeals;
- Council Member DuBord to the Board of Library Trustees;
- Council Member O'Connell to the Brownfield Redevelopment Authority;
- Council Member Blasier to the Electrical Advisory Committee;
- Council Member Moore to the Harbor Advisory Committee;
- Council Member Moore to the Historic District Commission;
- Council Member O'Connell to the Housing Commission;
- Council Member O'Connell to the Loan Administration Board;
- Council Member Blasier to the Planning Commission;
- Council Member DuBord to the Public Safety Retirement Board;
- Council Member Moore to the Recreation Advisory Board;
- Council Member DuBord to the Traffic Safety Advisory Committee;
- Council Member Blasier to the Delta County Solid Waste Management Authority;
- Council Member Tall to the 911 Authority.

NB-7 Discussion – City Manager Position

City Council gave an update on the City Manager Position. The sub-committee of Mayor Tall and Council Member Blasier gave an update on the continued

November 11, 2019

negotiations with City Manager Patrick Jordan.

NB-7 Blasier moved, O'Connell seconded, to accept the resignation of the City Manager Patrick Jordan and hire Mr. Jordan with an annual salary of \$125,000 per year, 32 days paid time off, a deposit by the City of Escanaba of 10% in a 457 qualified savings account, a severance package which will be paid in a lump sum in the result of an involuntary termination.

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

Ayes: Blasier, O'Connell, Moore, Tall

Nays: DuBord

MOTION CARRIED.

GENERAL PUBLIC COMMENT - None

ANNOUNCEMENTS

- Tyler DuBord wanted to thank all the veterans that have served or continuing to serve on this Veterans Day!
- Peggy O'Connell is happy that we will be retaining City Manager Patrick Jordan.

Hearing no further Council business or public comment, Blasier moved the Council adjourned at 7:51 p.m.

Respectfully submitted,

Phil DeMay
City Clerk

Approved: _____
Marc D. Tall, Mayor

Agenda Item: PH-1
Date: 11-21-19

City Council Agenda Item Request

Date: 11/08/2019

Name: Roxanne Spencer

Department: Planning & Zoning

Item: Amendment to Zoning Ordinance - Addition of Self-Storage Units to Chapter 13

Meeting date requested: November 21, 2019

Explanation for request:

Administration is requesting the City Council to consider approval and adoption of Ordinance No. 1215 An Ordinance to Amend Chapter XIII of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units. The Planning Commission is recommending that Self-Storage Unites be added to the list of Principal Uses Permitted by Right in the F – Light Manufacturing (Chapter 13).

ORDINANCE NO. 1215

AN ORDINANCE TO AMEND CHAPTER XIII OF APPENDIX A AS CODIFIED UNDER
THE CODE OF ORDINANCES

THE CITY OF ESCANABA HEREBY ORDAINS:

CHAPTER I

Chapter 13 of Appendix A, Light Manufacturing District ("F"), of the Escanaba Code of Ordinances is hereby amended under Section 1302 to state the following:

Section 1302: *General.* The following uses are permitted by right in a Light Manufacturing District:

- A. Bank, financial institution, credit union, office, studio, barber shop, beauty shop.
- B. Retail stores, restaurants, taverns, and shopping centers.
- C. Wholesale business, storage in bulk or warehouse for such materials as clothing, cotton, drugs, dry goods, feed, food, furniture, hardware, metals, pipe, rubber, shop supplies, tobacco, wool within an enclosed facility.
- D. Theater, moving picture house, recreation building, assembly hall.
- E. Mortuary, funeral home.
- F. Dyeing or dry cleaning plant, laundry.
- G. Bus terminal, taxi stand, truck terminal, enclosed freight terminal (shipping and trucking), airport, railroad passenger terminal, ship passenger terminal, enclosed railroad freight terminal.
- H. Printing plant, newspaper plant, radio and television broadcasting station.
- I. Police and fire station, telephone exchange.
- J. Community garage.
- K. Motels, hotels, convention center, and arenas.
- L. Churches, public or parochial schools, colleges, public library, museum, private educational institutions, community building or club.
- M. Hospital, home, medical clinic, dormitory, kennel, and veterinary hospital.
- N. Retail building material sales yard, contractor's equipment or storage yard, lumber yard.
- O. Light manufacturing, including airplane repair and manufacture, novelty manufacture, battery charging and repair, soft drink manufacture, clock factory, clothing manufacture, glove factory, tire repair shop and other similar uses, provided, however, that such industry is not obnoxious or offensive by reason of emission of odor, fumes, dust, smoke, waste, noise, or vibration.
- P. Amusement, commercial, outdoor.
- Q. Armories for meetings and training of military organizations.
- R. Automobiles, truck and utility trailer rental.
- S. Automotive repair garages, including engine overhaul, body and paint shops and similar operations.
- T. Automotive sales and repair, including tractor trucks, but not accompanying trailer units, including trailers, motorcycles, and recreational vehicles.
- U. Boat and ship sales and repair not exceeding one hundred (100) feet in length.
- V. Building maintenance services.
- W. Car washes.
- X. Cultural facilities.
- Y. Contractor offices and accessory storage, excluding the open storage of construction equipment and vehicles.
- Z. Distributive businesses, including warehousing in a single building.

- AA. Equipment rental and leasing.
- BB. Government buildings.
- CC. Indoor recreation facilities.
- DD. Research and production facilities.
- EE. Laboratories, dental, medical, and optical facilities (manufacture, sales and service).
- FF. Locksmiths, gunsmiths, and indoor firing ranges.
- GG. Manufacturer or assembly of:
 - Communications equipment.
 - Component parts of aircraft.
 - Computer and office equipment.
 - Electrical lighting and wiring equipment.
 - Electrical components and accessory.
 - Electronic equipment.
 - Furniture and fixtures.
 - Household audio and visual equipment.
 - Household appliances.
 - Industrial machinery.
 - Measuring and controlling devices.
 - Medical instruments.
 - Musical instruments.
 - Ophthalmic goods.
 - Pens, pencils, office and art supplies.
 - Pharmaceuticals.
 - Pumps.
 - Search and navigational equipment.
 - Toys and sporting goods.
 - Watches, clocks, watch cases and parts.
 - Wire products.
 - Other similar uses.
- HH. Manufacturer of housing sales and repairs.
- II. Merchandise showrooms, including warehousing in a single building.
- JJ. Nurseries and green houses, retail and wholesale.
- KK. Outdoor seasonal sales.
- LL. Post offices.
- MM. Studios for artists, designers, photographers, musicians, sculptors, gymnasts, potters, wood and leather craftsman, glass blowers, weavers, silversmiths, and designers of ornamental and precious jewelry.
- NN. Wholesale sales with related storage and warehousing entirely within an enclosed building.
- OO. Vocational schools, within an enclosed building.
- PP. Self-storage units.**

**CHAPTER II
SAVINGS CLAUSE**

If any section, subsection, sentence, clause, or phrase of this 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
CONFLICTING ORDINANCES REPEALING CLAUSE**

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:

APPROVED:

John M. A. Bergman
City Attorney

Marc D. Tall
Mayor

Date Approved: (Month) (Date), 2019

Attest

Date Published: (Month) (Date), 2019

Phil DeMay
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan at a Regular Meeting held on the (Date) day of (Month), 2019 and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Month) (Date), 2019, and 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.

Phil DeMay
City Clerk

Agenda Item: PH-2
Date: 11-21-19

City Council Agenda Item Request

Date: 11/08/2019

Name: Roxanne Spencer

Department: Planning & Zoning

Item: Amendment to Zoning Ordinance - Addition of Self-Storage Units to Chapter 15

Meeting date requested: November 21, 2019

Explanation for request:

Administration is requesting the City Council to consider approval and adoption of Ordinance No. 1216 An Ordinance to Amend Chapter XV of Appendix A as Codified Under the Code of Ordinances with the addition of Self Storage Units. The Planning Commission is recommending that Self-Storage Unites be added to the list of Principal Uses Permitted by Right in the G – Heavy Manufacturing (Chapter 15).

ORDINANCE NO. 1216

**AN ORDINANCE TO AMEND CHAPTER XV OF APPENDIX A AS CODIFIED UNDER
THE CODE OF ORDINANCES**

THE CITY OF ESCANABA HEREBY ORDAINS:

CHAPTER I

Chapter 15 of Appendix A, Heavy Manufacturing District ("G"), of the Escanaba Code of Ordinances is hereby amended under Section 1502 to state the following:

Section 1502: *General.* In a Heavy Manufacturing District, a building, structure, or premises may be erected or used for one (1) or more of the following specified purposes:

- A. Restaurants, taverns.
- B. Wholesale business, storage in bulk or warehouse for such materials as clothing, cotton, drugs, feed, food, furniture, hardware, metals, oil and petroleum, paint, pipe, rubber, shop supplies, tobacco, wool, wood within an enclosed facility.
- C. Cold storage plant, ice manufactory, creamery, ice cream manufactory, candy manufactory, bottling works, milk bottling or central distributing station, baking plant, dairy.
- D. Dyeing or dry cleaning plant, laundry.
- E. Printing plant, newspaper plant, radio and television broadcasting station, telephone exchange.
- F. Community garage.
- G. Manufacturing, including airplane repair and manufacture, novelty manufacture, battery charging and repair, soft drink manufacture, brewery, clock and watch manufacture, glove factory, hat manufacture, garment factory, tire repair shop, stone cutting, cemetery monuments, brick factory, cement block manufacture, cement fabrication, tile manufacture, terra cotta manufacture, furniture factory, mattress factory, insulation factory.
- H. Grain elevator, blacksmith shop, saw mill, foundry, asphalt plant, iron ore loading docks, railroad yards, railroad tie plant, iron ore pile, coal piles, and gravel piles.
- I. Scrap iron or junk storage, coal load and coal or wood yard, scrap paper or rag storage sorting or bailing.
- J. Light or power plant.
- K. Propane gas plant or bottle gas distributing plant.
- L. Sewage disposal or treatment plant.
- M. Fish curing, smoking and packing.
- N. Bus terminal, taxi stand, truck terminal, enclosed freight terminal (shipping and trucking), airport, railroad passenger terminal, ship passenger terminal, enclosed railroad freight terminal.
- O. Kennels, veterinary hospitals, manufacturing or industrial operations of any kind not listed above subject to the approval of the Planning Commission where such uses will not become noxious or offensive or endanger public health, sanitation or general welfare.
- P. Crematory.
- Q. Manufacturer or assembly of:
 - Communications equipment.
 - Component parts of aircraft.
 - Computer and office equipment.

- Electrical lighting and wiring equipment.
 - Electrical components and accessory.
 - Electronic equipment.
 - Furniture and fixtures.
 - Household audio and visual equipment.
 - Household appliances.
 - Industrial machinery.
 - Measuring and controlling devices.
 - Medical instruments.
 - Musical instruments.
 - Ophthalmic goods.
 - Pens, pencils, office and art supplies.
 - Pharmaceuticals.
 - Pumps.
 - Search and navigational equipment.
 - Toys and sporting goods.
 - Watches, clocks, watch cases and parts.
 - Wire products.
 - Other similar uses.
- R. Manufactured housing construction and assembly.
- S. Contractor offices and accessory storage, including the storage of general equipment and vehicles in an enclosed fenced-in area.
- T. Warehousing, **Self-storage Units**.

CHAPTER II
SAVINGS CLAUSE

If any section, subsection, sentence, clause, or phrase of this 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
CONFLICTING ORDINANCES REPEALING CLAUSE

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:

APPROVED:

John M. A. Bergman
City Attorney

Marc D. Tall
Mayor

Date Approved: (Month) (Date), 2019

Attest

Date Published: (Month) (Date), 2019

Phil DeMay
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan at a Regular Meeting held on the (Date) day of (Month), 2019 and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on (Month) (Date), 2019, and 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.

Phil DeMay
City Clerk

Agenda Item: NB-1

Date: 11-21-19

City Council Agenda Item Request

Date: 11/13/2019

Name: Phil DeMay

Department: Clerk

Item: Resolution 19-20 City Election from the Delta County Board of Canvassers

Meeting date requested: 11/21/19

Explanation for request:

Administration sought Council approval of a resolution to approve the election outcomes as certified by the Delta County Board of Canvassers. The resolution is a requirement stated in the City Charter, Chapter III, Section 12 that the City Clerk must give notice of the November 5, 2019 City Council Election results.

RESOLUTION NO. 19-20

CITY ELECTION FROM THE DELTA COUNTY BOARD OF CANVASSERS

Whereas, In accordance with the provisions of section 12 of Chapter III of the City Charter and Section 168.30a of Michigan Election Law, the Delta County Board of Canvassers, herewith certify that at a session of the Delta County Board of Canvassers held on Wednesday, November 6, 2019, at the County Courthouse at 1:00 p.m., the returns of the inspectors of the four (4) voting precincts and the Absent Voter Counting Boards of the City of Escanaba for the regular City Council Election held on November 5, 2019, were carefully examined and tabulated, and find that the returns were as follows:

**STATEMENT OF VOTES CAST IN THE REGULAR CITY ELECTION
HELD ON TUESDAY, NOVEMBER 5, 2019
FOR THE NAMED PERSONS LISTED HEREWITH, AS FOLLOWS:**

CITY COUNCIL ELECTION RESULTS				
PRECINCTS	Beauchamp	DuBord	Moore	Sattem
CITY HALL - 1	116	183	156	99
EARLY CHILDHOOD CENTER - 2	161	226	202	150
CATHERING BONIFAS CIVIC CENTER - 3	135	171	120	95
CHRIST THE KING LUTHERAN CHURCH - 4	62	71	52	31
AV COUNTING BD - 1	72	73	88	46
AV COUNTING BD - 2	223	235	301	170
AV COUNTING BD - 3	156	108	164	108
AV COUNTING BD - 4	51	46	64	36
TOTAL	976	1,113	1,147	735

Whereas, That Tyler D. DuBord and Karen S. Moore, having received a sufficient number of votes, were elected to the office of Escanaba City Council.

NOW THEREFOR BE IT RESOLVED, that the Escanaba City Council accepts the Delta County Board of Canvassers certification of the November 5, 2019, City Council Election results.

Ayes:

Nays:

RESOLUTION DECLARED ADOPTED."

Agenda Item: NB-2
Date: 11-21-19

City Council Agenda Item Request

Date: 11/13/19

Name: Melissa Becotte

Department: Controller

Item: MERS Participation Agreement Amendment

Meeting date requested: 11/21/19

Explanation for request:

Administration is seeking council approval of an amendment to the MERS 457 Participation Agreement. The City Manager's new contract provides for a 10% contribution into a 457 deferred compensation account paid by the City. The MERS 457 plan needs to be amended to allow for the employer contributions.

MERS 457 Participation Agreement



1134 Municipal Way Lansing, MI 48917 | 800.767.2308 | Fax 517.703.9707 | www.mersofmich.com

The Employer, a participating municipality or participating court within the state of Michigan, hereby agrees to adopt and administer the MERS 457 Program provided by the Municipal Employees' Retirement System of Michigan, in accordance with the MERS Plan Document, as both may be amended, subject to the terms and conditions herein.

I. **Employer Name:** City of Escanaba
(Name of municipality or court)

Municipality Number: 2101 **Division Number (if amendment):** 400883

II. **Effective Date:** The MERS 457(b) Program will be effective as follows (choose one):

Original Adoption. The MERS 457(b) Program will be effective _____,
(Month and year)

with respect to contributions upon approval by the Program Administrator.

To establish a new plan or replace current 457 carrier with the MERS 457 Program.

To add the MERS 457 Program in addition to: _____
(Other plan provider)

VERY IMPORTANT: All eligible programs of a Participating Employer are considered to be a single plan for purposes of compliance with Code Section 457(b). Thus, if a Participating Employer has more than one eligible 457 (or additional investment options under a 457(b) arrangement with more than one vendor), the Participating Employer is responsible for ensuring that all of its arrangements, treated as a single program, comply with the 457(b) requirements. In order to fulfill its responsibility for monitoring coordination of multiple programs, the Participating Employer must carefully review the Master Plan Document provisions.

Amendment and Restatement. The amended and restated MERS 457(b) Program will be effective 11/2019, with respect to contributions upon approval by the
(Month and year)
Program Administrator. *Please note:* You only need to mark *changes* to your plan throughout the remainder of this Agreement.

III. **Eligible Employees:** Only Employees as defined in the Program may be covered by the Participation Agreement. Subject to other conditions in the Program, this Agreement, and Addendum (if applicable), the following Employees are eligible to participate in the Program:

IV. **Contributions will be submitted (check one):**

Contributions will be remitted according to Employer's "Payroll Period" which represents the actual period amounts are withheld from participant paychecks, or within the month during which amounts are withheld.

Weekly Semi-Monthly (twice each month)
 Bi-Weekly (every other week) Monthly

MERS 457 Participation Agreement



1134 Municipal Way Lansing, MI 48917 | 800.767.2808 | Fax 517.703.9707 | www.mersofmich.com

Compensation

Employers may designate the definition of compensation per division participating in MERS 457(b) Supplemental Retirement Program Plan Document (check one):

- All income subject to income tax reported in Box 1 of Form W-2, plus elective deferrals
- Medicare taxable wages reported in Box 5 of Form W-2
- Base wages, to which any of the following may be included:
 - Longevity pay
 - Overtime pay
 - Shift differentials
 - Pay for periods of absence from work by reason of vacation, holiday, and sickness
 - Workers' compensation weekly benefits (if reported and are higher than regular earnings)
 - A member's pre-tax contributions to a plan established under Section 125 of the IRC
 - Transcript fees paid to a court reporter
 - A taxable car allowance
 - Short term or long term disability payments
 - Payments for achievement of established annual (or similar period) performance goals
 - Payment for attainment of educational degrees from accredited colleges, universities, or for acquisition of job-related certifications
 - Lump sum payments attributable to the member's personal service rendered during the FAC period
 - Other: _____
 - Other 2: _____

NOTE: For purposes of applying the Internal Revenue Code Section 415(c) limits on annual additions, compensation shall be defined as required under that law.

V. **Roth Deferral Contributions:** shall be permitted shall not be permitted

If **Roth Deferral Contributions** are elected, the Program will allow Roth rollover contributions from other designated Roth 457(b), 401(k), or 403(b) Plans. Roth in-plan rollovers will also be allowed. Roth in-plan rollovers allow a participant who has reached 70½ or who has incurred a severance from employment to elect to have all or a portion of his or her pre-tax contribution account directly rolled into a designated Roth rollover account under the plan if the amount would otherwise be permitted to be distributed as an eligible rollover distribution. Any amounts that are rolled to the Roth rollover account are considered to be irrevocable and may not be rolled back to the pre-tax account.

MERS 457 Participation Agreement

VI. **Loans:** shall be permitted shall not be permitted

If Loans are elected, please complete and attach the *MERS 457 Loan Addendum*.

VII. **Automatic Enrollment:** shall be permitted shall not be permitted

If selected, please complete and attach the *MERS 457 Eligible Automatic Contribution Arrangement (EACA) Addendum*.

VIII. **Employer Contributions:** shall be permitted shall not be permitted

If selected, please complete and attach the *MERS 457 Employer Contribution Addendum*.

IX. **Modification of the Terms of the Participation Agreement**

If the employer desires to amend any of its elections contained in the Participation Agreement, including attachments/addendums, the Governing Body or Chief Judge, by resolution or official action accepted by MERS, must adopt a new Participation Agreement. The amendment of the new agreement is not effective until approved by MERS.

X. **Enforcement**

1. This Participation Agreement, including attachments/addendums may be terminated only in accordance with the Master Plan Document
2. The Employer hereby agrees to the provisions of the *MERS 457 Supplemental Retirement Program and Trust Master Plan Document*.
3. The employer hereby acknowledges it understands that failure to properly fill out this Participation Agreement may result in the ineligibility of the program.

XI. **Execution**

Authorized Designee of Governing Body of Municipality or Chief Judge of Court

The foregoing Participation Agreement is hereby approved by CITY OF ESCANABA
on the ____ day of _____, 20____. (Name of Approving Employer)

Authorized signature: _____

Title: _____

Received and Approved by the Municipal Employees' Retirement System of Michigan

Dated: _____, 20____ Signature: _____
(Authorized MERS Signatory)

MERS 457 Employer Contribution Addendum



1134 Municipal Way Lansing, MI 48917 | 800.767.2308 | Fax 517.703.9711 | www.mersmich.com

This is an Addendum to the Participation Agreement completed by City of Escanaba Name of Employer
for City Manager Employee Group of 400883 Division Number

The Addendum modifies the Participation Agreement by providing for employer matching and/or non-matching contributions to the Program.

I. Employer Contributions

The Participating Employer may make matching contributions and/or non-matching contributions.

The Participating Employer elects to make contributions as follows (check *Matching*, *Non-Matching*, or both as applicable):

A. **Matching Contributions**

Employer Contributions shall be made to match all or a portion of a participant's compensation deferred into this Program. The Employer elects the following matching contribution formula (check and complete **Percentage** or **Flat Dollar and Employer Cap**, if applicable, below):

Percentage: For each payroll period in which the participant deferred compensation into the Program, the Employer will contribute _____% of the deferral amount.

For example, if an Employer elects a 50% match, then for every \$10 the participant defers to the Program, the Employer will contribute \$5 to the Program.

Flat Dollar: For each payroll period in which the participant deferred at least \$ _____ to the Program, the Participating Employer will contribute \$ _____ per payroll period.

Employer Cap: The Employer elects to establish a cap on its matching contributions, so that the match amount cannot exceed a certain amount. The Employer elects the following cap on its matching contribution:

Flat Dollar Cap: In no event will matching contributions made on behalf of a participant exceed a flat dollar amount equal to \$ _____ per _____ (pay period / year / etc.)

Cap Equal to Percentage of Total Compensation: In no event will matching contributions made on behalf of a participant exceed _____% of the participant's IRS Section 457(e)(5) includable compensation (gross income from the Employer).

B. **Non-Matching Contributions**

The Employer hereby elects to make contributions to the Program without regard to a participant's contribution to the Program. The Employer elects the following contribution formula (check one):

Annual Contributions: A one-time annual contribution of \$ _____ or _____% of compensation per participant.

\$ _____ or 10 % of compensation per participant for each payroll period.

Agenda Item: NB-3
11-21-19

City Council Agenda Item Request

Date: 11/13/19

Name: Jeff Lampi

Department: Wastewater Department

Item: Pre Construction Inspection for Asbestos, Lead, & Cadmium

Explanation for request:

Please consider this as a request for authorization to retain and hire Pearson Asbestos Abatement Inc., of Escanaba MI to conduct the work as outlined in the attached specification sheet at a cost not to exceed \$6,000.00.

Wastewater Department Memo

To: Patrick Jordan, City Manager

From: Jeff Lampi, W & WW Supt.

Date: 11/13/19

Re: Pre Construction Inspection for Asbestos, Lead, & Cadmium

Patrick,

In an effort to keep the demolition costs of the upcoming project as low as possibly, we have been advised to conduct an all inclusive inspection of the Wastewater Plant for Asbestos, Lead & Cadmium.

Chuck Lawson of C2EA and I have met with Dennis Person of Pearson Asbestos Abatement Inc to discuss this work. He has provided the attached quote for this inspection along with a scope of the sample analysis work for these items. Pearson's will conduct the required testing and provide a written report of his findings detailing what contamination exists, it quantities, and where it is located at. This report shall be shared with potential bidders for both construction and demolition work.

Completing this site assessment will remove much of the unknown abatement requirements throughout the site, which should translate to lower competitive bid results.

Therefore, please consider this as a request for authorization to retain and hire Pearson Asbestos Abatement Inc., of Escanaba MI to conduct the work as outlined in the attached specification sheet at a cost not to exceed \$6,000.00.

Pc: Melissa Becotte, City Controller



2715 Danforth Road, P O Box 1292

Escanaba, MI 49829

Phone: 906-786-3001 Fax: 906-789-4010

Email: admin@pearsonasb.com

November 11, 2019

City of Escanaba Waste Water Treatment Plant
P.O. Box 948
1900 Willow Creek Road
Escanaba, MI 49829

Attn: Jeff Lampi

RE: Inspection for the asbestos and lead/cadmium

Per our discussion and walkthrough, to do a relatively non-destructive inspection of the Waste Water Treatment Plant buildings for asbestos containing building materials and paint for lead and cadmium. The buildings include the office building, administrative garage, primary settling tank area, bar screen room, grit room, final clarifier, old greenhouse area and the digester. All visible suspect materials will be sampled except the roofs. We will attempt to take samples in inconspicuous areas. We will not be busting holes in walls and ceilings, busting up floors, etc., unless specifically instructed to do so. Paint samples will be somewhat limited to get a general idea of which items contain lead - (piping, floors, exterior, etc.).

<u>Inspection fee:</u>	\$992.00
<u>Lab fees:</u>	
Sample analysis for asbestos per layer of material that the lab analyzes (24 hr.) (45 - 65 layers expected) @ \$25.00 per layer	\$1,125 - \$1,625*
Paint samples for lead/cadmium as required by the State of Michigan (15 - 30 samples expected) @ \$49.00 ea.	<u>\$735 - \$1,470*</u>
Budget Investment:	\$2,852 - \$4,087

Price includes materials, labor, documentation, and \$6,000,000 occurrence form general and asbestos liability insurance. The inspection will be done by a State of Michigan accredited asbestos inspector according to EPA, LARA, OSHA, MDEQ and other regulations. Customer is responsible for electricity, water, heat, cosmetic repairs, and site security.

Please note that if additional materials are found later that reasonably should have been sampled initially and weren't, we will return and sample them with no inspection fee, only sample analysis charges.

Roof samples will be taken if you require that, but the city will be responsible for sealing up any holes or hiring someone to seal holes and they will provide access to all roofs.

Additional Budget Investment for roof samples: Plus lab charges (8-12 layers expected)	\$315.00
---	----------

~ #4402⁰²
plus ??

Please note that this includes a basic "Physical Assessment" report listing the sample identification number, description of the material, location, asbestos or lead and cadmium amounts and approximate quantity of the asbestos containing materials. This does not include blueprints, photographs, etc.

Thank you for the opportunity to quote. If you have any questions or would like to schedule this job, please call.

PEARSON ASBESTOS ABATEMENT INC.

Dennis Pearson

Dennis Pearson
DJP/lk

Acceptance of the above work _____
Signature Date

TERMS: Balance due within 30 days after invoicing. Finance Charges 1.5%. Please sign this and return. Thank you. This proposal is good for 30 days unless otherwise stated.

Agenda Item: NB-4
Date: 11-21-19

City Council Agenda Item Request

Date: November 14, 2019

Name: Roxanne Spencer

Department: Planning & Zoning

Item: Wind Energy Systems Ordinance Amendment

Meeting date requested: November 21, 2019

Explanation for request:

It was discovered that when the Wind Energy Systems Ordinance #1204 was adopted by City Council in April 2019, the ordinance was written incorrectly to make it Chapter 21 of the Zoning Ordinance. However, a Chapter 21 already exists regarding the Central Retail District. The Wind Energy Systems addition should have been made Chapter 22 of the Zoning Ordinance instead.

This amendment seeks to correct the chapter and section reference numbers only. No changes are recommended to any other wording of the ordinance.

ORDINANCE NO. 1217 _____

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AN ORDINANCE AMENDING ORDINANCE NO. 1028, BY ADDING CHAPTER 21-22 TO PROVIDE PROVISIONS FOR THE REGULATION FOR SAFE, EFFECTIVE AND EFFICIENT USE OF WIND ENERGY SYSTEMS.

THE CITY OF ESCANABA ORDAINS:

CHAPTER 1
CHANGES IN THE ORDINANCE

That Ordinance No. 1028, is hereby amended by adding Chapter 21-22 to read as follows:

CHAPTER 21-22
INTENT

The intent is to allow development of sustainable energy sources while providing regulations that limit the impact of these systems on the community and environment as follows:

Protect the visual character of neighborhoods; protect neighboring property owners from noise, nuisance, and safety impact; protect ecological and cultural environments; protect migratory fly ways; and ensure structures do not impact aviation safety.

SECTION 21012201
DEFINITIONS

The terms used in this chapter have the following meaning:

- A. **Height**. The vertical distance from grade level adjacent to the base of the structure to the center of the hub for a horizontal axis wind turbine or the highest point of a vertical axis wind turbine.
- B. **Lmax**. The highest instantaneous sound emission level measured in decibels.
- C. **Decibels**. A unit used to measure the intensity of a sound, represented herein as dB(A).
- D. **Roof-Mounted Energy System**. A type of small wind energy system that is mounted on a roof.
- E. **Tower Mounted Wind Energy System**. A wind energy system that is mounted on a freestanding tower attached to the ground, and not attached to any other permanent or temporary structure.
- F. **Small Wind Energy System**. A wind energy system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to reduce on-site consumption of utility power.

Ordinance No. 1217 ~ continued

- G. **Utility Wind Energy System.** A wind energy system consisting of a wind turbine, tower or axis, blades or blade system, and associated control or conversion electronics primarily intended to provide wholesale or retail energy to the electric utility grid. Often referred to as Large-Scale Wind Energy System.
- H. **Wind Energy System.** Any wind energy conversion device including all associated control or conversion electronics.
- I. **Horizontal axis wind turbine:** The rotating axis of the wind turbine is horizontal, or parallel with the ground.
- J. **Vertical axis wind turbine:** The rotating axis of the turbine stands vertical or perpendicular to the ground.
- K. **Shadow Flicker:** Shadow flicker is a term used to describe what happens when rotating wind turbine blades pass between the viewer and the sun, causing an intermittent shadow that repeats as a flicker.

**SECTION 21022201
WHERE PERMITTED**

- A. Small Wind Energy Systems are permitted in the following zoning districts, Residential A, B, C, C2, Local Business (D), Commercial (E & E1), and Light Manufacturing (F & F1), provided that the requirements of this chapter are met. Small Wind Energy Systems are not permitted in Open Space Districts.
- B. Utility Wind Energy Systems may be permitted in Heavy Manufacturing districts, provided that the requirements of this chapter are met. Utility Wind Energy Systems or Large-Scale Wind Energy Systems are not permitted in any other district.

**SECTION 21032203
REVIEW PROCEDURES AND STANDARDS**

- A. Small Wind Energy Systems
 - (a) Submittal Requirements. Applications for small wind energy systems shall be reviewed administratively. The applicant shall submit a plan complying with the requirements of Chapter 18 for site plan and sketch plan standards.
 - (b) Height Modification. If the applicant requests a height modification, the application shall be reviewed by the Planning Commission following a public hearing held in accordance with the requirements of Chapter 2, Section 205. Heights may not exceed maximum allowable heights of any other structure in the associated district.
- B. Utility Wind Energy Systems. The review process for any utility wind energy system shall follow the Special Land Use Permit approval process in Section 205 of the Zoning Ordinance and meet the standards outlined in Section 2107 herein.

**SECTION 21042204
GENERAL STANDARDS**

The following requirements are applicable to all wind energy systems.

- A. **Noise.** A wind energy system shall not generate a noise level of more than 50 dB(A) Lmax, measured at the property line. Noise resulting from a wind energy system will not be detectable beyond the property line.
- B. **Shadow Flicker.** The application for a wind energy system shall include shadow flicker consideration, demonstrating locations where shadow flicker will occur, along with measures the applicant will take to eliminate shadow flicker. Shadow flicker will not be detectable beyond the property line. For utility wind energy systems, a shadow flicker analysis must be conducted and included in the application.

- C. **Lighting.** No wind energy system shall be artificially lighted unless required by the Federal Aviation Administration. In such applications when lighting is required, applicant will use radar activating lights or equivalent technology to activate lights only when aircraft are in the area.
- D. **Vibration.** Resulting vibration from a wind energy system will not be detectable beyond the property line.
- E. **Spacing.** The minimum distance between two (2) wind turbines shall be equal to or greater than the combined height of both turbines.
- F. **Rotor Clearance.** For horizontal axis turbines the minimum blade or rotor clearance from the ground shall be twenty (20) feet. Rooftop mounted turbines shall provide a minimum clearance from the building in accordance with the manufacturer specifications.
- G. **Appearance, Color, and Finish.** The wind energy system shall be maintained in the color or finish that was originally applied by the manufacturer, unless otherwise approved in the building permit. All wind energy systems shall be finished in a non-reflective matte finished color (gray, beige, or white).
- H. **Tower.** Turbine shall be constructed with a tubular tower. Lattice towers and guy wires shall be prohibited for ground-mounted systems.
- I. **Signs.** All signs other than the manufacturer or installer’s identification, appropriate warning signs, or owner identification signs are prohibited.
- J. **Electrical Wires.** All electrical wires associated with a wind energy system other than wire necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and grounding wires shall be located underground.
- K. **Compliance with Electrical Code.** Building permit applications for wind energy systems shall be accompanied by line drawings of the electrical components in sufficient detail to allow for a determination that the manner of installation conforms to the National Electrical Code.
- L. **System Access.** The tower shall be designed and installed such that step bolts, ladders, or other means of access readily accessible to the public are located at least 8 feet above grade level.
- M. **Wind Access.** The City makes no assurance of wind access other than the provisions of this section. The applicant may provide evidence of covenants, easement, or similar documentation for abutting property owners providing access to wind for the operation of a wind energy system.

**SECTION 21052205
TOWER-MOUNTED SMALL WIND ENERGY SYSTEMS**

The following standards are applicable to tower-mounted small wind energy systems:

Residentially Zoned Parcels	Non-Residentially Zoned Parcels
Minimum Parcel Area	
0.5 acres	20 acres
Maximum Height	
35 feet	One foot of height for every 2.5 feet of setback from the base of the tower to the nearest residential dwelling unit, or the maximum allowable building height in the district, whichever is lower
Setback Requirements	

Residentially Zoned Parcels	Non-Residentially Zoned Parcels
<ul style="list-style-type: none"> The minimum setback from any property line shall be the height of the wind turbine plus 5 feet The minimum setback from any road or overhead utility right-of-way or easement shall be equal to the height of the turbine unless written permission is granted by the governmental agency or other entity with jurisdiction over the right-of-way or easement Tower-mounted wind energy systems may not be located in the front yard of any lot unless the principal building is set back 200 feet or more. In such a case, a tower-mounted system may be located in the front yard provided that a minimum 150-foot front yard setback between the tower and the front property line is maintained <u>The use shall not generate noise, vibration, or flicker detectable beyond the property line</u> 	<ul style="list-style-type: none"> The minimum setback from any property line shall be the height of the wind turbine plus 5 feet The minimum setback from any road or overhead utility right-of-way or easement shall be equal to the height of the turbine unless written permission is granted by the governmental agency or other entity with jurisdiction over the right-of-way or easement Tower-mounted wind energy systems may not be located in the front yard of any lot unless the principal building is set back 200 feet or more. In such a case a tower-mounted system may be located in the front yard provided that a minimum 150-foot front yard setback between the tower and the front property line is maintained <u>The use shall not generate noise, vibration, or flicker detectable beyond the property line</u>

**SECTION 21062206
ROOF-MOUNTED SMALL WIND ENERGY SYSTEMS**

The following standards are applicable to roof-mounted small wind energy systems:

Residentially Zoned Parcels	Non-Residentially Zoned Parcels
Minimum Parcel Area	
No minimal parcel area	No minimum parcel area
Maximum Height	
The maximum height is fifteen (15) feet above the highest point of the roof, <u>not to exceed the maximum allowable height of any structure in the district.</u>	The maximum height is: twenty (20) feet above the top of roof elevation of the building for any building located within two hundred fifty (250) feet of a residential dwelling, or 150% of the building height, whichever is lower
Setback Requirements	
Roof-mounted wind energy systems shall be set back a minimum of twenty (20) feet from the property line, or the height of the system above the top of the roof elevation multiplied by 1.25, whichever is greater	Roof-mounted wind energy systems shall be set back a minimum of twenty (20) feet from the property line, or the height of the system above the top of the roof elevation multiplied by 1.25, whichever is greater
<u>The use shall not generate noise, vibration, or flicker detectable beyond the property line</u>	<u>The use shall not generate noise, vibration, or flicker detectable beyond the property line</u>

**SECTION 21072207
UTILITY WIND ENERGY SYSTEMS**

Large-Scale Wind Energy systems must meet the General Standards in Section 2104 as well as meet the following standards:

- A. **Minimum Site Area.** Utility wind energy systems may only be developed on a non-residential zoning lot with an area of forty (40) acres or greater.
- B. **Height.** The permitted maximum height shall be one hundred (100) feet.

- C. **Setbacks.** Any Utility Wind Energy System shall be set back a distance equal to four times the height of the tower from any property line, road right-of-way, or overhead utility line.
- D. **Noise.** Noise emissions from the operation of a wind energy system shall not exceed fifty (50) dB(A) Lmax. Manufacturer's specifications indicating the operating noise levels of the wind energy system at full RPM shall be provided with the application. A sound evaluation by a qualified professional following installation will be required to determine compliance with the requirements of this Section.
- E. **Towers.** Utility wind energy systems shall use tubular monopole towers, and shall not contain lettering, company insignia, advertising, or graphics on the tower or turbine that are visible beyond the property boundaries.
- F. **Climbing Devices.** Towers shall not have a permanent attached tower climbing device.
- G. **Environmental and Cultural Impacts.** The applicant shall submit environmental and cultural impact analysis prepared by a qualified third party assessing any potential impacts on the natural and/or cultural environments including, but not limited to wetlands, migratory flyways, and other ecosystems, historical and cultural sites, wildlife, and antiquities. The impact analysis shall seek feedback and input from appropriate agencies including the United States Fish and Wildlife Service (USFWS), State Historic Preservation Office (SHPO), Michigan Department of Natural Resources (M-DNR), and Michigan Department of Environmental Quality (M-DEQ). Comments and recommendations of the reviewing agencies shall be binding. The applicant shall take appropriate measures to minimize, eliminate, or mitigate adverse impacts identified. If the adverse impacts cannot be sufficiently mitigated or eliminated, the City Planning Commission shall deny the application for the utility wind energy system.
- H. **Braking Systems.** Wind turbines shall be equipped with automatic braking systems, or governing device capable of keeping the turbine operation in high winds within eighty percent (80%) of its survival wind speed.
- I. **Radio Interference.** The wind energy system shall be designed, constructed, and operated so as not to cause radio and television interference. In the event that electromagnetic interference is experienced, the applicant must provide alternate service to each individual resident or property owner affected.
- J. **Community Impact.** The applicant shall be responsible for repairing any public roads or other public infrastructure damaged or otherwise worn beyond typical usage by the construction of the utility wind energy system.
- K. **Decommissioning.** The applicant shall submit a decommissioning plan, including the following items of information:
 - (a) The anticipated life of the project.
 - (b) The estimated decommissioning costs and net salvage value in present dollars.
 - (c) The method of ensuring funds will be available for decommissioning and removal of towers, and restoration of the site to a pre-construction condition.
 - (d) Anticipated manner in which the project will be decommissioned, and the site restored.
- L. **Complaint Resolution.** The applicant shall develop a process to resolve any potential complaints from nearby residents concerning the construction and operation of the project. The process may use an independent mediator or arbitrator and shall include a time limit for acting upon a complaint not to exceed 5 business days. The process shall not preclude any governmental body from acting on a complaint. The applicant shall maintain and make available to nearby residents a toll-free telephone number or texting service where a project representative can be reached during normal business hours.
- M. **Site Plan Requirements.** Applicants shall comply with the Special Land Use Permit approval process in Section 205 of the Zoning Ordinance, and including the following information:
 - (a) Location and height of all proposed buildings, structures, electrical lines, towers, security fencing, and other above ground structures associated with the wind energy system.

- (b) Locations and height of all adjacent buildings, structures, and above ground utilities located within three hundred (300) feet of the exterior boundaries of the lot or parcel where the proposed wind energy system will be located. Specific distances to other on-site buildings, structures, and utilities shall also be provided.
- (c) The location of all existing and proposed overhead and underground electrical transmission or distribution lines shall be shown.
- (d) Existing and proposed setbacks for the wind energy system from all structures located on the property where the wind energy system will be located.
- (e) The site plan submittal shall contain a written description of the procedures to be used to maintain the wind energy system. The description shall include maintenance schedules, types of maintenance to be performed, procedures in the event the property is sold or changes ownership, and removal procedures and schedules in the event the wind energy system becomes obsolete or is abandoned.
- (f) A copy of the manufacturer's installation instructions.
- (g) Drawings and engineering calculations shall be certified by a registered engineer licensed in the State of Michigan.
- (h) A noise modeling and analysis report showing noise levels at property lines at full RPM. Noise levels will not exceed 50 db(A) Lmax at any adjacent property lines.
- (i) A shadow flicker analysis shall be prepared. The analysis shall identify the locations of shadow flicker and the expected durations of the flicker at these locations from sun-rise to sun-set over the course of a year. The analysis shall identify problem areas where shadow flicker may affect residents, livestock, and/or traffic. The analysis shall include measures that will be taken to eliminate the problems. Shadow flicker is not permitted on adjacent properties.

**CHAPTER 2
SAVINGS CLAUSE**

If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be unconstitutional or unlawful 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 and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or unlawful.

**CHAPTER 3
REPEALING CLAUSE**

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

Ordinance No. _____ ~ continued

**CHAPTER 4
EFFECTIVE DATE**

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

APPROVED:

APPROVED:

~~Ralph B.K. Peterson~~ John M.A. Bergman
City Attorney

Marc Tall
Mayor

ATTEST:

Phil DeMay
City Clerk

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the City Council of the City of Escanaba, County of Delta, Michigan, at a regular meeting held on _____, 2019, and was published in the Daily Press, a newspaper of general circulation in the City of Escanaba on _____, 2019, and that 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.

Phil DeMay
City Clerk

Agenda Item: NB-5
Date: 11-21-19

City Council Agenda Item Request

Date: November 15, 2019

Name: Patrick Jordan

Department: Administration

Item: Consideration of request to purchase city-owned parcel (partial)

Meeting date requested: November 21, 2019

Explanation for request:

We've received a request from a resident to purchase a small carved-out section of a city-owned parcel adjacent to their residential lot. This parcel is zoned residential and is part of the City's 5-year Rec Plan. There has been migratory bird grant moneys spent on this lot.

November 13, 2019

Patrick Jordan

City Manager

410 Ludington Street

Escanaba, Michigan 49829

Dear Patrick:

We (Edgar and Susan Jacobsen) reside at 2211 Lake Shore Drive are requesting to purchase the parcel of land (Part of Government Lot 1 of Section 6 T.38N., R.22W.) for whatever is fair market value.

We purchased our house in 2005 and thought the City property that we are requesting to purchase already belonged to us. We have maintained the City property by mowing and raking the property for the last 14 years. Our request to purchase this triangle of City property (4139.1 square feet, none of which is waterfront) is simply based upon the fact that it adjoins our property and if sold to us, would square off our lot and allow us to utilize the property in the following ways. Specifically, the intended uses are:

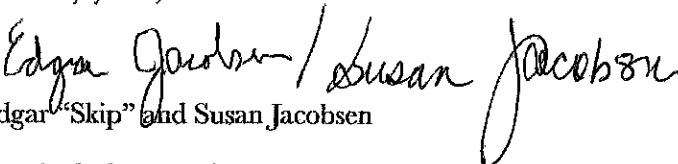
1. Our house was built in 1969 and the owners at that time, built the driveway partially on City property. Because the driveway is 50 years old and the concrete is deteriorating, we plan to replace it. By purchasing the City property surrounding our driveway, would allow us to hire a concrete contractor to operate heavy equipment to remove and replace our driveway without damaging City property; and

2. We have our driveway plowed in the winter. Over the last 14 years, we have had our contractor plow the driveway to the north. By purchasing the City property we would continue to have the snow plowed and piled up on the north side of our driveway. Again, if the lawn were to be damaged due to the snow removal we would repair it as we have done in the past.

The triangle of City property that we are requesting to purchase is partially wooded and submerged in water. However, it is valuable to us because we plan to replace our driveway and with the on-set of winter, we will need to have a place where the snow from our driveway can be piled up.

Thank you in advance for considering our request to purchase the outlined triangle of land from the City. Please contact us at (906)789-1413, if you have any questions.

Sincerely yours,


Edgar "Skip" and Susan Jacobsen

Attached: Survey 19404-1911 by Davis Wanic

Mr. Thomas Graf
WRD-EGLE
P.O. Box 30458
Lansing, MI. 48909

November 5, 2019

SUBJECT: PARCEL ACQUISITION

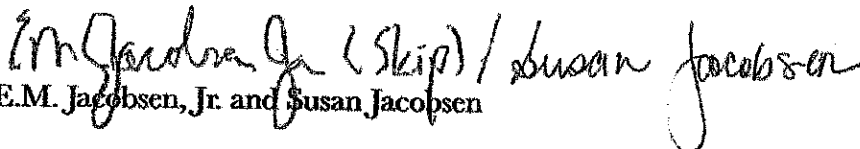
Dear Tom,

In response to our conversation on Monday, November 4, 2019, we would like to formally request approval to purchase a triangle section of City property that adjoins our property. Our house was built in 1969 and the owners at that time, built the driveway partially on City property. The property is all grass that we have mowed and maintained since 2005 when we bought the house (we thought it was our lawn). Because our driveway is partially situated on City property, we are requesting your approval to purchase the pink segment to square off our property and to avoid any potential conflicts that may arise, should we decide to replace our driveway in the future.

I have enclosed a survey of our residence, which shows the triangular parcel (highlighted in pink); this is the property we are requesting to purchase. The pink parcel has not been surveyed, but it gives you an idea on how the property fits with our parcel.

Once you have had a chance to contact Patrick Jordan, the City Manager for the City of Escanaba, please let us know what we can provide you with to accomplish this request. If you have any questions, please contact Susan or me at 906-789-1413. Thank you for your attention to this matter.

Sincerely yours,


E.M. Jacobsen, Jr. and Susan Jacobsen

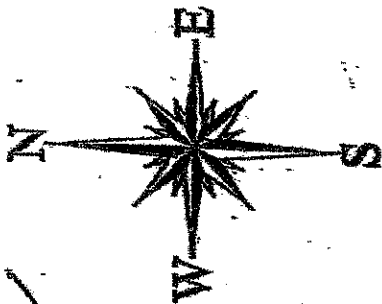
2211 Lake Shore Drive

Escanaba, MI. 49829

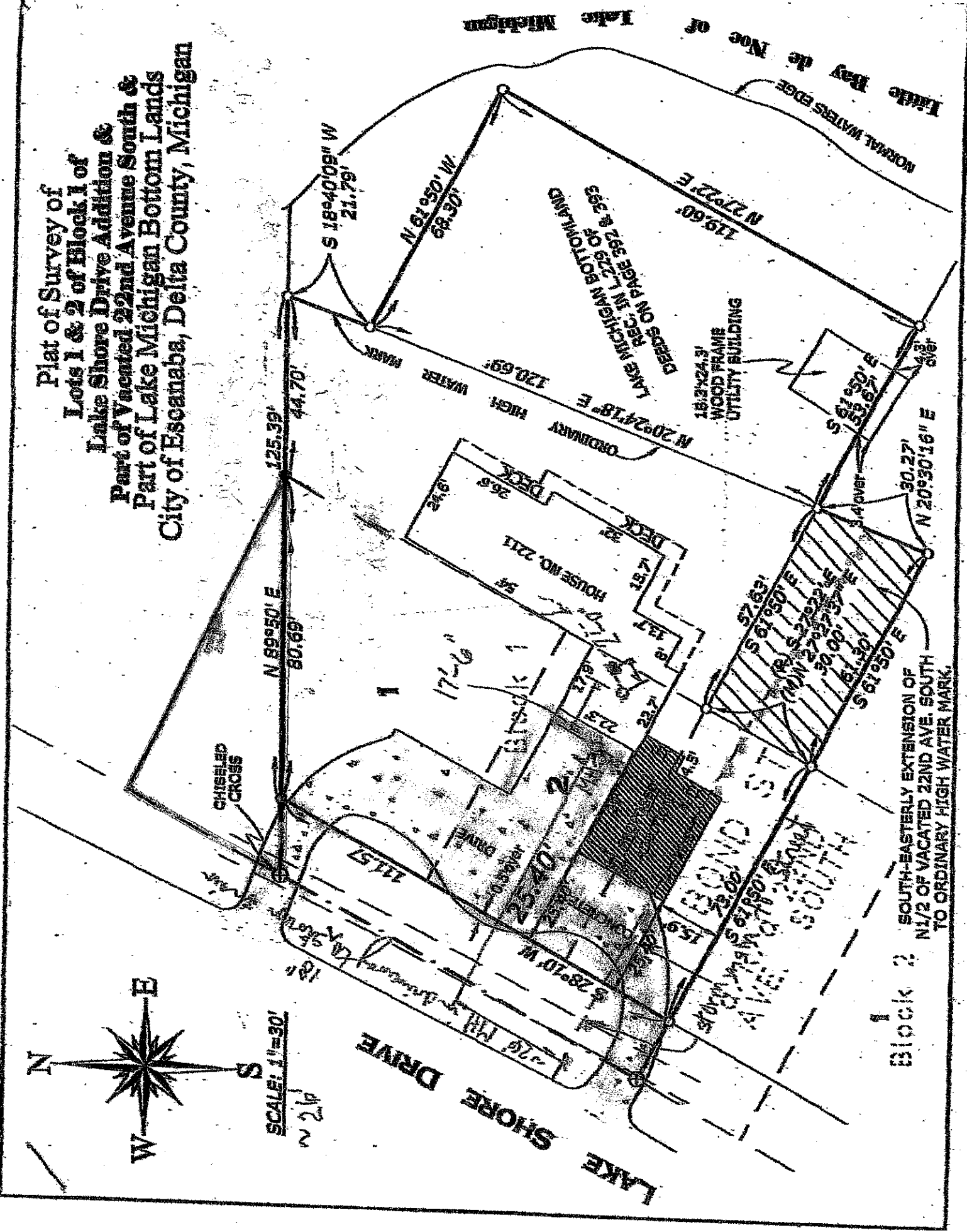
Enclosure: survey

CC: Mr. Patrick Jordan, City Manager, City of Escanaba

Plat of Survey of
 Lots 1 & 2 of Block 1 of
 Lake Shore Drive Addition &
 Part of Vacated 22nd Avenue South &
 Part of Lake Michigan Bottom Lands
 City of Escanaba, Delta County, Michigan



SCALE: 1"=30'



Block 1
 Block 2
 SOUTH-EASTERLY EXTENSION OF
 N 1/2 OF VACATED 22ND AVE. SOUTH
 TO ORDINARY HIGH WATER MARK.

Normal Waters Edge of
 Lake Bay de Noc of
 Lake Michigan

Patrick -

The filled bottomlands deed issued to the City of Escanaba for the lots on Lakeshore Drive was sold as a private sale and not with a restriction for public use only. Therefore, the City and the Jacobsens can enter into a sale of the desired triangle of filled bottomlands without the State of Michigan issuing a filled bottomlands deed.

See attached approval memo from 1960 explaining the sale to the City.

Any questions, please contact me.

Tom Graf
Water Resources Division
Michigan Department of Environment, Great Lakes and Energy
P.O. Box 30458
Lansing, MI 48909-7958
517 284-5561

From: Patrick Jordan <citymanager@escanaba.org>
Sent: Tuesday, November 05, 2019 12:02 PM
To: Graf, Tom (EGLE) <GRAFT@michigan.gov>
Cc: Robert Becotte <rbecotte@escanaba.org>; James McNeil <jmcneil@escanaba.org>; Kim Peterson <kpeterson@escanaba.org>
Subject: Jacobsens in Escanaba

Tom,
Susan appreciate her talk with you. I have no objections to this. I'm leaving the end of the month for a position in Florida, but would love to see this happen. What's next? I've copied my staff that may be involved in this.

Patrick Jordan

From: mxm453@escanaba.org <mxm453@escanaba.org>
To: citymanager@escanaba.org
Date: Tue, 5 Nov 2019 11:52:37 -0500
Subject: Scanned image from U4817 Escanaba Upstairs

Reply to: mxm453@escanaba.org <mxm453@escanaba.org>
Device Name: U4817 Escanaba Upstairs
Device Model: MX-M453N
Location: Not Set

File Format: PDF (Medium)
Resolution: 200dpi x 200dpi

Miller
APPROVED

DEC 9 1960

MICHIGAN CONSERVATION COMMISSION

November 2, 1960

Clifford
SECRET

Memorandum to the Director:

Re: Application of the City of Escanaba, Michigan, for Deed under authority of Act 247, P. A. 1955, as amended, for filled Lake Michigan bottomland in Delta County, described as follows:

CITY OF ESCANABA.

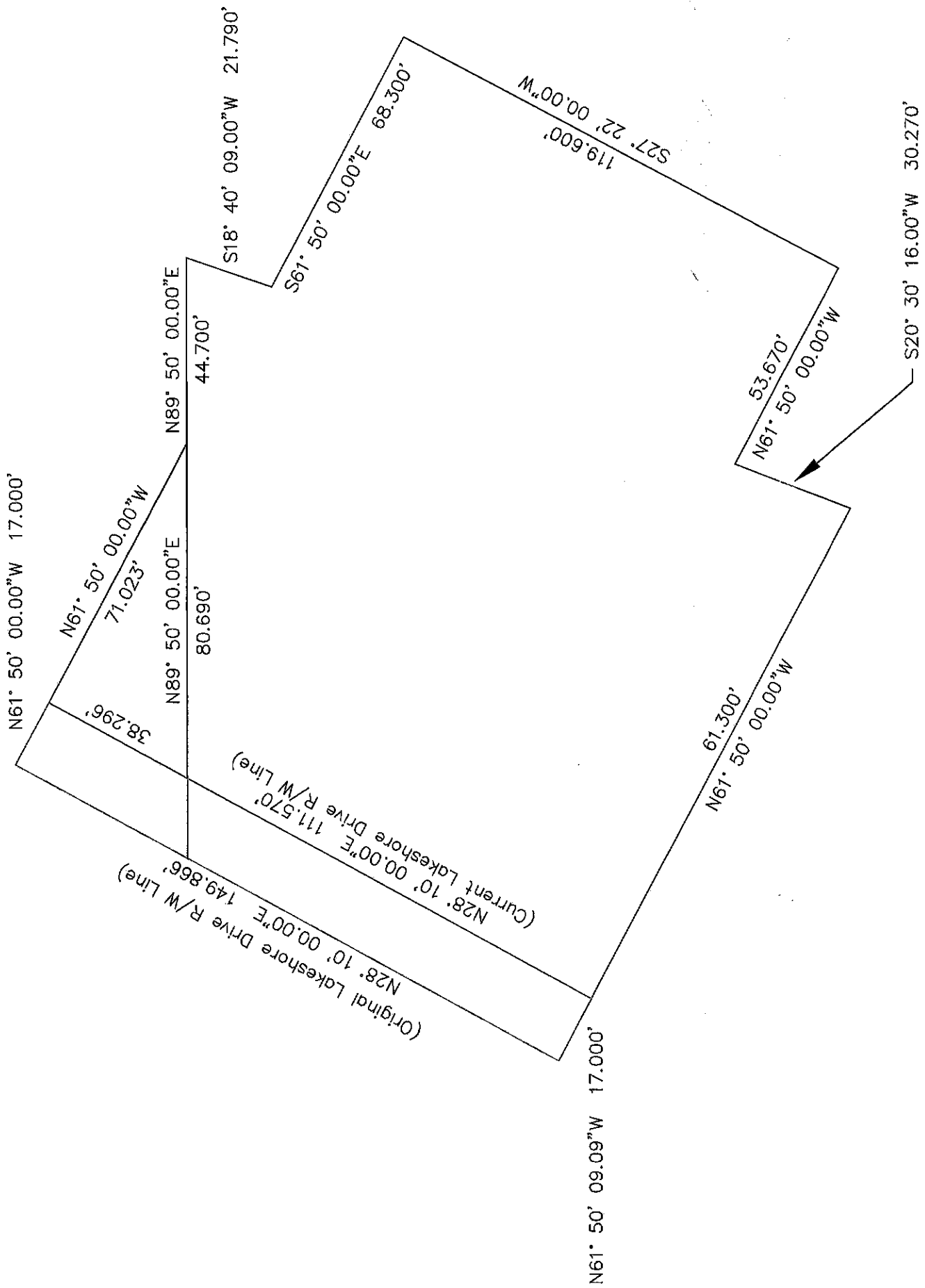
A parcel of filled Lake Michigan bottomland situated opposite adjacent and contiguous to Government Lot 1, Sec. 6, T38N, R22W, described as commencing at the NW corner of said Sec. 6; thence N 89° 22' E 434.93 feet; thence S 0° 38' E 214.5 feet; thence N 89° 22' E 159.3 feet to the point of beginning; thence N 89° 22' E 111.7 feet; thence S 14° 52' W 418 feet; thence S 32° 52' W 140.5 feet; thence S 26° 22' W 140.1 feet; thence S 44° 22' W 173 feet; thence S 78° 38' W 158 feet; thence N 31° 22' E 600 feet; thence N 18° 22' E 235 feet to the point of beginning, containing 3.02 acres.

The application has been filed for quitclaim deed from the State of Michigan for the above described filled Lake Michigan bottomland. The application has the required approval of the Michigan Waterways Commission and the U. S. Corps of Engineers.

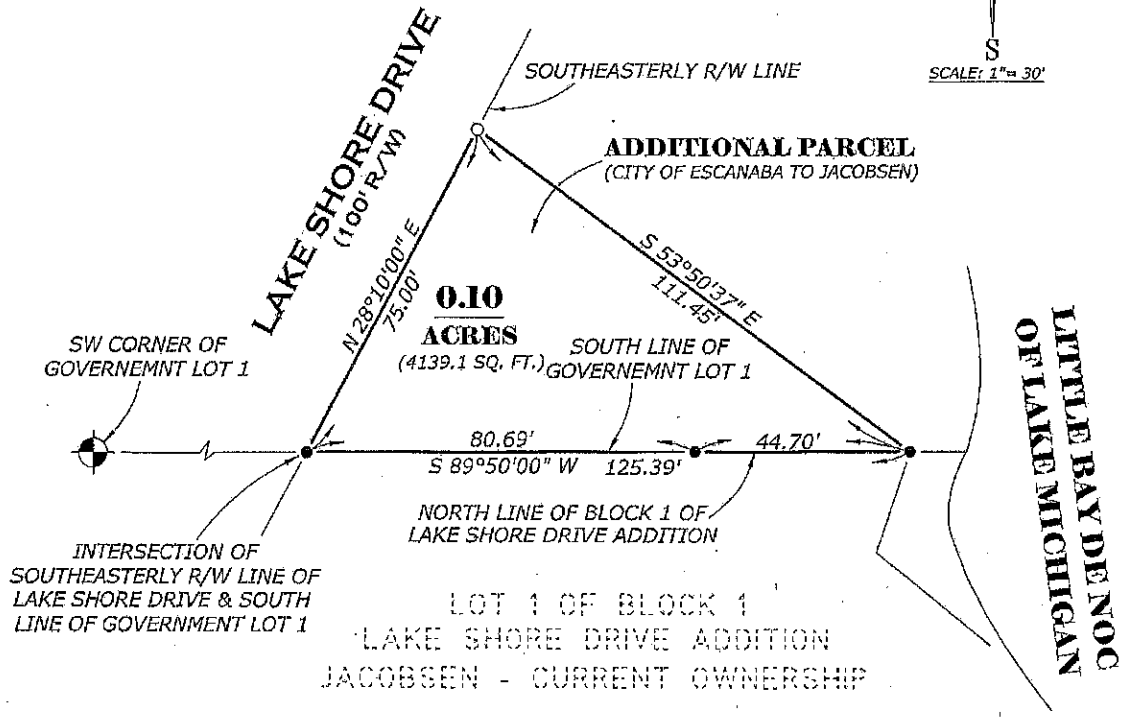
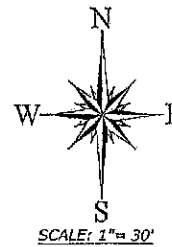
The above parcel is located in Escanaba along Lake Shore Drive about a mile south of the city's large lake front park. The property was filled in around 1950 by the City and later sold as five separate parcels under warranty deed. The purpose of filing the application is to clear title to these parcels, three of which are now developed to single family residences. The entire filled parcel measures about 150 feet in average depth by 870 feet along the lake.

A thorough appraisal has been made of the above filled bottomland as required by Act 247, P. A. 1955, as amended. The appraisal price is in the amount of \$5,755.00. It is recommended that conveyance be granted upon payment of 30 per cent of the appraisal price, or \$1,730.00. It is believed the payment will cover the full value of the bottomlands applied for and appropriated by fill. The public interest will not be adversely affected by granting conveyance to the applicant for the above land as there is no hunting, fishing or boating on this bottomland and the adjacent submerged bottomlands will not be adversely affected by conveyance. All minerals will be reserved to the State.

Charles E. Miller
CHARLES E. MILLER
Lands Division



**Plat of Survey of
Part of Government Lot 1 of
Section 6 T.38N., R.22W.
City of Escanaba
Delta County, Michigan**



PROPERTY DESCRIPTION: (CITY OF ESCANABA TO JACOBSEN)

BEGINNING AT THE INTERSECTION OF THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF LAKE SHORE DRIVE & THE SOUTH LINE OF GOVERNMENT LOT 1 OF SECTION 6 T.38N., R.22W. THENCE N.28°10'00"E. ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 75.00 FEET, THENCE S.53°50'37"E. A DISTANCE OF 111.45 FEET TO SAID SOUTH LINE, SAID LINE ALSO BEING THE NORTH LINE OF BLOCK 1 OF LAKE SHORE DRIVE ADDITION TO THE CITY OF ESCANABA AS RECORDED IN LIBER "B" OF PLATS ON PAGE 32 OF DELTA COUNTY RECORDS, THENCE S.89°50'00"W. ALONG SAID SOUTH LINE A DISTANCE OF 125.39 FEET TO THE POINT OF BEGINNING.

CONTAINING 0.10 OF AN ACRE OR 4139.1 SQ. FT.

SURVEY FOR	EDGAR & SUSAN JACOBSEN	JOB NUMBER	19404-1911
SUBJECT	PROPERTY DIVISION		
DATE OF SURVEY	NOVEMBER 11, 2019		
DATE OF MAPPING	NOVEMBER 11, 2019		
CERTIFICATE OF SURVEY TO:	EDGAR & SUSAN JACOBSEN		
<p>I, TERENCE S. WANIC, A PROFESSIONAL SURVEYOR IN THE STATE OF MICHIGAN, HEREBY CERTIFY, THAT I HAVE MADE A SURVEY OF THE ABOVE DESCRIBED LANDS, THAT IRON MONUMENTS, TOGETHER WITH THOSE FOUND HAVE BEEN PLACED OR LOCATED AT THE POSITIONS INDICATED HEREON, THAT THERE ARE NO VISIBLE PHYSICAL ENCROACHMENTS EITHER WAY ACROSS PROPERTY LINES, EXCEPT AS SHOWN, THAT THE RELATIVE ERROR OR CLOSURE OF THE UNADJUSTED FIELD MEASUREMENTS OF THE SURVEY IS LESS THAN THE RATIO OF 1 PART IN 10,000.</p> <p><i>Terence S. Wanic 11/11/19</i></p>			
<p>TERENCE S. WANIC, Professional Surveyor No. 44296</p>		<p align="center">COPY</p>	
<p align="center">LEGEND</p> <ul style="list-style-type: none"> -/— INDICATES A LINE NOT DRAWN TO SCALE ○ IRON MONUMENTS SET ● IRON MONUMENTS FOUND □ CONC. MONUMENTS SET ■ CONC. MONUMENTS FOUND ⊕ CHISELED CROSS IN CONCRETE (M) MEASURED DISTANCE AND/OR BEARINGS (R) RECORDED DISTANCE AND/OR BEARINGS ◆ SECTION CONTROL CORNERS 			
		<p>1410 Ludington Street Escanaba, Michigan 49829 Phone (906)786-1755, Fax 786-6487 info@daviswanic.com</p>	









2400
Lot: 018

2405
Lot: 017

2408
Lot: 016

2200
Lot: 001

2300
Lot: 019

2305
Lot: 020

