



CITY COUNCIL

MEETING AGENDA

January 16, 2020

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, January 16, 2020, at 7:00 p.m.

CALL TO ORDER

ROLL CALL

INVOCATION/PLEDGE OF ALLEGIANCE

APPROVAL/CORRECTION(S) TO MINUTES – Regular Meeting – January 2, 2020

APPROVAL/ADJUSTMENTS TO THE AGENDA

CONFLICT OF INTEREST DECLARATION(S)

BRIEF PUBLIC COMMENT(S)

PUBLIC HEARINGS

1. Public Hearing – Citizen Participation – 2020/21 Fiscal Year Budget Preparation.

Explanation: Each year, Council holds public hearings to facilitate input from citizens for the upcoming FY2020/21 fiscal year budget. This is the first of five (5) scheduled public hearings.

UNFINISHED BUSINESS

NEW BUSINESS

1. Approval – Deficit Elimination Plan - Controller.

Explanation: The Downtown Development Authority ended the 2019 fiscal year with a deficit fund balance of \$78,846. This is the result of the internal loan provided by the City to assist in payment for construction of the Marketplace. Administration is seeking Council approval of a resolution for the deficit elimination plan as required by the Michigan Department of Treasury.

2. Discussion/Possible Action – Moratorium for New Hotel Construction.

Explanation: Proxima has requested a 3-year moratorium on any new hotel/motel construction within the City of Escanaba for a period of 3 years.

APPOINTMENTS

BOARD, COMMISSION, AND COMMITTEE REPORTS

GENERAL PUBLIC COMMENT

ANNOUNCEMENTS

ADJOURNMENT

Respectfully Submitted

A handwritten signature in blue ink that reads 'Patrick S. Jordan'.

Patrick S. Jordan
City Manager

**OFFICIAL PROCEEDINGS
CITY COUNCIL
CITY OF ESCANABA, MICHIGAN
Regular Council Meeting
Thursday, January 2, 2020**

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, Tyler D. DuBord, Karen S. Moore, and Peggy O'Connell

Absent: None

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

City Clerk DeMay led Council in the Pledge of Allegiance.

Blasier moved, O'Connell seconded, **CARRIED UNANIMOUSLY**, to approve Regular Meeting minutes from December 19, 2019, as submitted.

ADJUSTMENTS TO THE AGENDA

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

CONFLICT OF INTEREST DECLARATION – None

BRIEF PUBLIC COMMENT

Glen Vande-Water – discussed New Business Item 2 and the City Charter.

Anne McNamara - discussed New Business Item 2 and the City Charter.

Christine Williams – discussed New Business Item 2 and the City Charter.

PUBLIC HEARINGS – None

UNFINISHED BUSINESS – None

NEW BUSINESS

NB-1 Approval – Scheduling of Public Hearings – 2020/21 Fiscal Year Budget Preparation – Citizen Participation.

Each year, the City Council holds public hearings to facilitate input from citizens

for the upcoming fiscal year budget. Administration sought Council approval to schedule the first of three (3) public hearings for January 16, 2020. Additionally, Administration sought City Council approval to schedule additional public hearings for February 20, 2020, and March 19, 2020.

NB-1 Blasier moved, O’Connell seconded, to schedule public hearings for January 16, 2020, February 20, 2020, and March 19, 2020, for citizen input on the 2020/21 Fiscal Year Budget.

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

Ayes: Blasier, O’Connell, Moore, DuBord, Mayor Tall

Nays: None

MOTION CARRIED.

NB-2 Approval – Quit-Claim and Conveyance of City-Owned Property to State of Michigan.

A request from a resident, through the State of Michigan, DNR, conveyance to and purchase from the State a .03 acre parcel and adjoin it to their residential parcel for future access and maintenance of their lakefront property.

Mayor Tall requested the record state that council received emails from Joe Kaplan and Richard Clark with their recommendations to deny the request to transfer the property to the State of Michigan.

NB-2 Moore moved, O’Connell seconded, to deny the request to transfer the property to the State of Michigan via Quit-Claim Deed.

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

Ayes: Moore, O’Connell, Blasier, DuBord, Mayor Tall

Nays: None

MOTION CARRIED.

APPOINTMENT(S) TO CITY BOARDS, COMMISSIONS, AND COMMITTEES –

Mayor Tall, with Council consensus, made the following reappointments:

Suzell Eisenberger reappointed to the Historic District Commission, term expiring October 1, 2022.

Elizabeth Keller reappointed to the Historic District Commission, term expiring October 1, 2022.

Christine Williams reappointed to the Planning Commission, term expiring June 1, 2022.

Jon Liss reappointed to the Zoning Board of Appeals, term expiring June 1, 2021.

Dennis Renken reappointed to the Zoning Board of Appeals, term expiring June 1, 2022.

BOARD, COMMISSION, AND COMMITTEE REPORTS

Council Members reviewed City Board and Commission meetings each attended since the last City Council Meeting.

GENERAL PUBLIC COMMENT

Aaron Deiter – spoke about the very generous donation from a resident to Lego Club.

ANNOUNCEMENTS - None

Hearing no further public comment, O’Connell moved, Blasier seconded the Council adjourned at 7:17 p.m.

Respectfully submitted

Phil DeMay
City Clerk

Approved: _____
Marc D. Tall, Mayor

Agenda Item: NB-1

Date: 01-16-20

City Council Agenda Item Request

Date: 1/3/20

Name: Melissa Becotte

Department: Controller

Item: Deficit Elimination Plan

Meeting date requested: 1/16/20

Explanation for request:

The Downtown Development Authority ended the 2019 fiscal year with a deficit fund balance of \$78,846. This is the result of the internal loan provided by the City to assist in payment for construction of the Marketplace. Administration is seeking Council approval of a resolution for the deficit elimination plan as required by the Michigan Department of Treasury.

**RESOLUTION 20-02
DEFICIT ELIMINATION PLAN
FOR THE DOWNTOWN DEVELOPMENT AUTHORITY FUND**

Whereas, The City of Escanaba's Downtown Development Authority Fund has a \$78,846 deficit fund balance on June 30, 2019, and;

Whereas, 1971 PA 140 requires that a Deficit Elimination Plan be formulated by the local unit of government and file with the Michigan Department of Treasury;

Now therefore be it Resolved, That the City of Escanaba's City Council adopts the following as the City of Escanaba's Downtown Development Authority Fund Deficit Elimination Plan:

	2020	2021	2022
Unrestricted Net Position (Deficit) July 1	(\$78,846)	(\$6,499)	\$71,107
Revenue			
Taxes	295,000	300,900	306,918
Investment Earnings (Loss)	7,000	7,000	7,000
Other	9,000	9,000	9,000
Total Revenue	311,000	316,900	322,918
Expenditures			
Salaries, Wages and Overhead	94,533	96,424	98,352
Supplies	4,000	5,000	5,000
Professional Services	36,600	36,000	36,000
Telephones	2,650	2,650	2,650
Travel	350	350	350
Public Relations	18,100	18,100	18,100
Printing and Publishing	200	200	200
Insurance	2,570	2,600	2,625
Utilities	6,000	6,000	6,000
Maintenance of Lots/Sidewalks	19,500	19,500	19,500
Repairs to Structures	15,000	15,000	15,000
Repairs to Equipment	2,000	2,000	2,000
Rental of Equipment	3,000	3,000	3,000
Memberships and Dues	250	250	250
Education and Training	500	500	500
Capital Outlay	17,500	17,500	17,500
Books, Magazines and Periodicals	500	500	500
Interest Expense	12,900	11,220	9,525
Contributions to Other Funds	2,500	2,500	2,500

Total Expenditures	238,653	239,294	239,552
Revenue Over Expenditures	72,347	71,970	77,564
Ending Net Position	(\$6,499)	\$71,107	\$154,473

Be it further Resolved, That the City of Escanaba's City Controller submits the Deficit Elimination Plan to the Michigan Department of Treasury for certification.

Ayes:

Nays:

RESOLUTION DECLARED ADOPTED.

Agenda Item: NB-2
Date: 1-16-20

City Council Agenda Item Request

Date: January 9, 2020

Name: Patrick Jordan

Department: Administration

Item: Discussion and possible action on Moratorium for New Hotel Construction

Meeting date requested: January 16, 2020

Explanation for request:

Proxima has requested a 3-year moratorium on any new hotel/motel construction within the City of Escanaba for a period of 3 years.



December 11, 2019

MEMORANDUM OF UNDERSTANDING
Moratorium on New Development of Lodging and Hospitality Facilities
in Support of the City of Escanaba Downtown Development Authority

TO: Officials of the City of Escanaba

This Memorandum of Understanding addresses the need for a temporary moratorium on the development and construction of a hotel or motel or other lodging or hospitality facility, other than those currently establish or in development, in support of the efforts and financial investment of the City of Escanaba into its Downtown District.

A moratorium on business development may be enacted for the benefit of the municipality and its plans for development. Approving a moratorium should only be for the general welfare of the Municipality.

Act 197 of Public Acts of 1975, the Downtown Development Authority Act, provides the legal mechanism for local officials to address the need for economic development in the central business district. City of Escanaba City Council adopted Ordinance No. 792 which created the Escanaba Downtown Development Authority. Escanaba Downtown Development Authority fosters initiatives to develop the Downtown District (or the Development Area) of the City of Escanaba, approximately 1.5 square miles. This plan for development included, among others, the Waterfront Redevelopment Plan. The City of Escanaba has and will continue to invest significant funds and tax-payer dollars into the development of the Downtown District, and specifically, is investing into the tourism and hospitality contemplated in the Waterfront Redevelopment Plan.

The "City of Escanaba Downtown Development Authority Amended and Restated Development Plan and Tax Increment Financing Plan" states:

"The need for establishing the Escanaba Development District (referred to as "Development Area") is founded on the basis that the future success of Escanaba's current effort to revitalize its commercial area will depend, in large measure, on the readiness and ability to initiate public improvements that strengthen the commercial area and when feasible to participate in the development of new private uses that clearly demonstrate the creation of new jobs, the attraction of new business, and the generation of additional tax revenues."

Pursuant to the Amended and Restated Development Plan and Tax Increment Financing Plan, it is in the best interest for the general welfare of the City of Escanaba to encourage tourism and hospitality in its Downtown District.

The US Census Bureau estimated a total population of the City of Escanaba to be 12,181 people in 2018, approximately 9,708 of which would be adults over the age of 18. Within the limited square miles of the Downtown District and population size of the City of Escanaba, permitting a surplus of hospitality choices will jeopardize the success of the City of Escanaba's investment into its Downtown District. Currently, there is an existing hospitality lodging in the downtown district, the House of Ludington, located at 223 Ludington St, Escanaba, MI 49829, and a hotel development currently in Phase I of construction, located at 111 North 3rd Street, Escanaba, Michigan 49829 (together referenced as "Current Hospitality Facilities").

Current Hospitality Facilities rely upon a healthy market share of tourist and employees, but any additional hotels, motels or other lodging or hospitality facilities would decrease the market share relied upon by the Current Hospitality Facilities for their survival. Potential employees would be willing to commute a ten-mile difference for even slightly more pay, and tourists would be willing to commute ten miles, and even over waterfront properties, for a decreased lodging rate. If permitted, the success of the Current Hospitality Facilities would be jeopardized and the purposes driving the Escanaba Downtown Development Authority would be undermined.

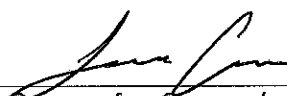
A moratorium to not permit the development or construction of a Hotel or Motel or other lodging or hospitality facility need only be temporary to allow the stabilization of the Current Hospitality Facilities. Generally, hotels require thirty-six (36) month in order to stabilize in a marketplace. This standard is relied upon by lending institutions when funding the development and operations of a new hotel, as well as by the franchisor of the new hotel. If the market share is not substantial enough or the market share is too greatly saturated, the lending institution and/or franchisor will not support the hotel development given the risks associated. A thirty-six (36) month moratorium would support the stabilization of the Current Hospitality Facilities in order to fulfill the efforts and protect the financial investment of the City of Escanaba.

While questions have arose regarding municipalities' authority to enact a moratorium, courts have not ruled against any moratorium in the State of Michigan. *See Cummins v. Robinson Township*, 283 Mich. App. 677, 770 N.W.2d 421 (2009); *Central Advertising Co v St. Joseph Township*, 125 Mich. App 548, 554-555 (1983); *BPA II v Harrison Township*, 73 Mich. App 731, 733-734 (1977); *Heritage Hill v Grand Rapids*, 48 Mich. App 765, 768 (1973). Moratoriums must be temporary with a specific enactment and termination date in order to protect public health, safety, and general welfare.

A moratorium to not permit the development or construction of a Hotel or Motel or other lodging or hospitality facility in the City of Escanaba for a period of thirty-six (36) months after the issuance of the Phase I Certificate of Completion for the hospitality development located at 111 North 3rd Street, Escanaba, Michigan 49829, would be in furtherance of the financial ability to current local hospitality ventures, and the general welfare of the City of Escanaba.

This memorandum of understanding is limited to the facts cited above and is not intended to be used by or relied upon by any person other than the party to whom the opinion letter is addressed. This does not constitute legal, tax, or financial advice, but rather should be considered only informational.

Best Regards,



Isaac Carr of Counsel of Carr,
Skadberg & Kazmierczak LLC

RESOLUTION NO. 20-03

THE CITY OF ESCANABA NOW RESOLVES A MORATORIUM RESOLUTION TO NOT PERMIT THE DEVELOPMENT OR CONSTRUCTION OF A HOTEL OR MOTEL OR OTHER LODGING OR HOSPITALITY FACILITY.

WHEREAS approving the moratorium is in the general welfare of the Municipality;
WHEREAS supporting current local hospitality ventures will benefit the local economy;
NOW, THEREFORE, be it resolved by the Mayor and City Counsel of the City of Escanaba:

SECTION 1. Moratorium. The Municipality enacts this Resolution to not permit the development or construction of a Hotel or Motel or other lodging or hospitality facility.

SECTION 2. Duration. This Resolution shall remain in effect for a period of no less than thirty-six (36) months after the issuance of the Phase I Certificate of Completion for the hospitality development located at 111 North 3rd Street, Escanaba, Michigan 49829, and in furtherance of the financial ability to current local hospitality ventures, and the general welfare of the Municipality.

SECTION 3. Exceptions. The Municipality may permit the development or construction of a Hotel or Motel or other lodging or hospitality facility for the following situations:

- (i) Current operating Hotels or Motels or other lodgings, such as House of Ludington, located at 223 Ludington St, Escanaba, MI 49829, or
- (ii) Current negotiations regarding development and/or construction at 111 North 3rd Street, Escanaba, Michigan 49829, or
- (iii) Expansion of current Hotels or Motels or other lodgings or hospitality facilities.

SECTION 4. Applicability. This Resolution applies to the extent permitted within the boundaries of the City.

SECTION 5. Authority. This Resolution is subject to the maximum amount of time and geography permitted by resolution or ordinance of the City or other governing entity.

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

Ayes:

Nays:

RESOLUTION DECLARED ADOPTED.