



CITY COUNCIL WORK SESSION AGENDA

August 13, 2015

8:00 a.m.

Marc D. Tall, Mayor
Ronald J. Beauchamp, Mayor Pro-Tem
Patricia A. Baribeau, Council Member
Michael Satterm, Council Member
Ralph B. Blasier, Council Member

James V. O'Toole, City Manager
Robert S. Richards, CMC, City Clerk
Ralph B.K. Peterson, City Attorney

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

The Council has adopted a policy to use a Consent Agenda, when appropriate. All items listed 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.

Work Session

Thursday, August 13, 2015, 8:00 a.m.

CALL TO ORDER
ROLL CALL
APPROVAL/ADJUSTMENTS TO THE AGENDA
CONFLICT OF INTEREST DECLARATION

NEW BUSINESS

1. Discussion - Michigan Tax Tribunal Cases Update.

Explanation: Mrs. Daina Norden, City Assessor, will update the Escanaba City Council on the Michigan Tax Tribunal Cases that are currently filed against the City of Escanaba.

GENERAL PUBLIC COMMENT
ANNOUNCEMENTS
ADJOURNMENT

Respectfully Submitted,

James V. O'Toole
City Manager



CITY OF ESCANABA

COUNTY OF DELTA

STATE OF MICHIGAN

NOTICE OF SPECIAL STUDY SESSION
MEETING OF THE CITY COUNCIL

PLEASE TAKE NOTICE that the Escanaba City Council will conduct a special study session meeting on August 13, 2015, 8:00 a.m. in Room 101, of the City Hall. The purpose of the meeting is to receive a Michigan Tax Tribunal Update, and/or any other items for discussion.

August 13, 2015; 8:00 a.m.

This notice is given in accordance with Act 267 of the 1976 Public Acts of State of Michigan and Chapter II, Section 5, of the Escanaba City Charter. The City of Escanaba will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting/hearing upon five (5) days notice to the City of Escanaba. Individuals with disabilities requiring auxiliary aids or services should contact the City of Escanaba by writing or calling the below named City Clerk. Public notice will be given regarding any changes of the above meeting.

James O'Toole, City Manager
(906) 786-9402

or

Robert S. Richards, CMC
City Clerk
(906) 786-1194

RSR/bms

posted 8/10/2015 10:00 AM



Memo

To: City Council
CC: Jim O'Toole, Manager
From: Daina Norden, Assessor
Date: 8/04/2015
Re: Michigan Tax Tribunal

Michigan Tax Tribunal Cases Update Question hiring Attorney and Appraiser

I just wanted to bring you up to date on the Michigan Tax Tribunal Cases that are currently filed against the City of Escanaba. Attached is a complete list of the cases I am working on. Additionally there is a Summary of the 2014 cases set for trial and their potential financial impact on the City of Escanaba.

The first is Menards which we are all familiar with. Currently we have filed a court of appeals on the decision and further down the list we have filed an appeal for the 2015 tax year as well.

The second is the Walgreens personal property appeal. This has been fast tracked and on July 29th I was notified that this is scheduled for a court hearing with a valuation disclosure due 9/17/2015. The Department of Treasury has issued a memo regarding their determination of the proper depreciation schedule for these appeals. Last week we stipulated based on the Department of Treasury decision.

Autozone, Escanaba Country Club, and O'Reilly Automotive are three cases that I propose we hire legal counsel and have an appraisal conducted. I have cost estimates for three cases from our attorney Jack VanCoevering as well as an estimate for the appraisals from James T. Hartman. I went with Mr. Hartman on the advice of Mr. VanCoevering because the Golf Course Appraisal is a pretty specialized item and this firm works with Golf Course valuation regularly. They also offer a discounted price because we are looking to hire them for multiple appraisals. See attached cost estimates. Jack's estimate included Hudson's instead of O'Reilly's however I believe it would be the same based on his estimate. I have notified Mr. VanCoevering of the difference.

The last case with an upcoming trial date is Delta Plaza Mall. This court date is newly added with a valuation disclosure due February 18, 2016. I intend to discuss this case with the Tax Consultants for the mall but ultimately I feel that we will need to hire Counsel and an Appraiser for this case as well if my discussions are unsuccessful.

The next case has not been finalized. The petitioner is in default.

The remaining cases are in the early stages of the process and I have been working on them as well. One that stands out is the Shopko appeal in that the Representative for Shopko is the same Representative that Menards had. I have been gathering data and preparing to send a request to the Michigan Department of Treasury/State Tax Commission for assistance in this Shopko case as well as 4 other Shopko cases in Michigan that were filed by the same firm. As I understand it, they have the ability to get involved in cases with the potential for a substantial impact on tax valuations.

Michigan Tax Tribunal 1(517)373-3003

Case File Number	Tax Year(s)	Parcel Number	Name	Representative	Notes	Site Address	MFT	Status	OVER	Next Due Date	Valuation Disclosure	Date of Hearing
0441600	2012, 2013, 2014	420-2825-100-006	Menards Inc	Paradigm Tax Group Paul Bach	& 14-001918-TT	3300 Ludington Street	ET	Filed appeal with COURT OF APPEALS				
14-000081	2010, 2011, 2012, 2013	430-0000-402-010	Walgreen Company	Honigman Miller Schwartz		personal property @ Walgreens 2301 Ludington Street	ET	SETTLED	X			
14-002976	2014, 2015	420-2825-200-031	Autozone Development	Fred Gordon, PC		Autozone Store 405 North Lincoln Road	ET	Sent Interrogatories 7/15/15 - Recv'd 7/30/15		10/17/2015	10/17/2015	12/16/2015 - 12/30/2015
14-003007	2014, 2015	120-2825-278-003	Palm Revocable Trust	Fred Gordon, PC	Hudsons	Hudsons 201 North Lincoln Road	ET	SETTLED	X			
14-003330	2014, 2015	420-2931-300-028	Escanaba Country Club	Fred Gordon, PC	& 2931-300-029 & 2930-300-030	Escanaba Country Club 1800 11th Avenue South	ET	Sent Interrogatories 7/8/2015 - Due 8/05/15 Sent additional Interrogatories for appraiser 7/29/15 - Due 8/26/15		8/5/2015	11/5/2015	1/4/2016 - 1/15/2016
14-004038	2014	420-2813-200-004	Gary Micheau	Self	Hotel Sold	Americas Best Value Inn 2301 North Lincoln Road	ET	SETTLED	X			
14-004871	2014, 2015	420-2930-100-009	O'Reilly Automotive Inc	Ryan, LLC		O'Reilly Store 521 North Lincoln Road	ET	Offered stip of \$90/sq ft - Countered \$100 w/ proof respond Monday		7/20/2015	1/16/2016	3/16/2016 - 3/31/2016
14-005398	2014, 2015	120-2825-278-001	Escanaba Delta Mall LLC	GSA Property Tax Consultants		Delta Plaza Mall 301 North Lincoln Road	ET	Need Valuation Disclosure		2/18/2016	2/18/2016	4/18/2016- 4/29/2016
15-001222	2015	010-2929-306-001	Raquel Mitchell / Northern Michigan Bank	self	& 420-2813-200-008 & 420-2813-200-015	723 Ludington St 2805 N Lincoln 2727 N Lincoln	ET	PETITIONER IN DEFAULT		N/A		
15-001472	2015	420-2919-300-027	Sears Holdings Corp	Patrick C Doody Law Offices	& 420-2919-300-028	Kmart	ET	ANSWER SENT 6/26/2015				
15-001735	2015	420-2825-200-022	Shopko Prop/SPE #16	Paradigm Tax Group Paul Bach		Shopko 2530 1st Avenue North	ET	ANSWER SENT 7/8/2015				
15-002137	2015	420-2825-100-006	City V Menards	Jack VanCoevering	Ref to COA case: 14- 001918 & 0441600	3300 Ludington Street	ET	PETITION SUBMITTED				
15-002603	2015	420-2836-200-020	GA HC REIT II Escanaba MI MOB, LLC	Ryan, LLC Thomas Randle			ET	NEEDS ANSWER		8/25/2015		
15-003710	2015	420-2813-200-007	Tractor Supply Co.	Same		Tractor Supply 2501 N Lincoln Rd	ET	NEEDS ANSWER		8/21/2015		

15 Total Open

6 2015 Total NEW

Summary of Pending Michigan Tax Tribunal Cases

1 Escanaba Country Club	
2014 Total Assessed	590,288
2014 Taxable Value	521,163
2014 Appealed Value	330,000
2014 Difference in Tax	(191,163)
Total Years being appealed	2
Total potential revenue loss all years	\$ (6,641.27)

Total Taxable Value being appealed: 2014 (1,762,279)
Potential City Revenue Loss: \$ (65,682.03) annually

2 Autozone	
2014 Total Assessed	268,455
2014 Taxable Value	268,455
2014 Appealed Value	150,000
2014 Difference in Tax	(118,455)
Total Years being appealed	2
Total potential revenue loss all years	\$ (4,100.49)

3 O'Reilly Automotive	
2014 Total Assessed	390,699
2014 Taxable Value	390,699
2014 Appealed Value	280,000
2014 Difference in Tax	(110,699)
Total Years being appealed	2
Total potential revenue loss all years	\$ (4,635.24)

4 Delta Plaza Mall	
2014 Total Assessed	2,536,178
2014 Taxable Value	2,286,000
2014 Appealed Value	944,038
2014 Difference in Tax	(1,341,962)
Total Years being appealed	2
Total potential revenue loss all years	\$ (50,305.04)

Zimbra

RE: MTT Appraisals in City of Escanaba

From : James T. Hartman <~~jhartman@escanaba.org~~>
Subject : RE: MTT Appraisals in City of Escanaba
To : Daina Norden <dnorden@escanaba.org>

Tue, Jul 28, 2015 03:24 PM

📎 1 attachment

Daina,

The following is the appraisal fees for a Phase I/Phase II appraisal report. Phase I would be a single year valuation and would provide a range in value. Phase II would be the final report for tax tribunal purposes, with two years of valuation.

Escanaba Country Club \$5,500/\$3,000 – Total \$8,500

With the O'Reilly's and Autozone, it would appear to be some duplication of research. Assuming I was awarded both, the fee would be \$6,500/\$3,500 – Total \$10,000. If I am only awarded one then the fee is - \$4,500/\$2,500 – Total \$7,000.

If awarded all two or three appraisals, I could reduce my fee \$500 each as there would be a cost savings with drive-time, etc.

The time to complete the phase I reports is 45-60 days and the phase II is 21-30 days.

Thank you,
 Jim

I know you had mentioned you have already sent an information request list, but I wanted to forward you one of my typical information request list for a golf course appraisal.

The following information is requested in order for us to complete our appraisal of the _____ Golf Course:

1. Floor plans of the various buildings (clubhouse, maintenance, etc.), if available or different than previously provided/viewed.
2. Income and expense statements from 2011, 2012, 2013 and 2014 with detailed departmental break-downs (greens fees/cart, food/beverage, pro shop merchandise, range, etc.), and explanation of any one-time atypical expenses.
3. Annual wages paid to the owner(s) or person(s) related to the owners from 2010 and 2014, with duties performed.
4. Number of annual rounds from 2011 to 2014 (18-hole equivalents if available), and whether the annual rounds include member rounds.
5. Greens fees, cart fees, etc. for 2011 and 2014.
6. Membership fees and number of members annually during 2011 and 2014.
7. Summary of any lease agreements (equipment, carts, land, etc.).
8. Equipment list/depreciation schedule (equipment, carts, etc.) as of each effective date of value under appeal (i.e. 12/31/13 and 12/31/14).
9. List of any significant improvements over the last 5-years, and any budgeted/anticipated in the coming year.
10. Copy of any consulting reports, soil studies, feasibility analysis, market analysis, etc.
11. Sales history of the course (and underlying land) during the preceding five years (i.e. listings, sales negotiated, etc.).

12. Any information provided to petitioners appraiser.

James T. Hartman, MAI, SGA, AI-GRS
Senior Managing Director

Valbridge Property Advisors | The Oetzel-Hartman Group
2127 University Park Drive
Suite 390
Okemos, Michigan 48864
Tel: 517-336-0001 ext. 308
Fax: 517-336-0009



Valbridge
PROPERTY ADVISORS
The Oetzel-Hartman Group

From: Daina Norden [mailto:dnorden@escanaba.org]
Sent: Tuesday, July 28, 2015 12:00 PM
To: James T. Hartman
Subject: Fwd: MTT Appraisals in City of Escanaba

Jim:

As we discussed on the phone, I would like an estimate of costs for a two part appraisal on the Escanaba Country Club with a valuation disclosure due November 5, 2015.

Additionally, I am currently working on an appeal from AutoZone and O'Reilly's Auto parts stores. They are both newly constructed. The valuation disclosures are due October 17, 2015 and January 16, 2016 respectively.

All of the above appeals are for 2014 and 2015.

Jack did forward your information you had sent which involved a restaurant that has since been settled. I am hoping to bring my proposal to council on August 20th. If you feel this is a problem, let me know. I have sent interrogatories to both ECC and Autozone that will be due back 8/5 and 8/12. I will offer any assistance needed in your research.

Thank you for your time. Let me know if you have any questions.

I had images attached however the message was too big to deliver. If you need images or anything else let me know.

Daina Norden, MAAO & PPE
Assessor, City of Escanaba
PO Box 948
Escanaba, MI 49829
Direct 906-789-7322

This email is Confidential- If you received this in error, please notify the sender

June 1, 2015

Daina Norden, MAAO & MCPPE
Assessor, City of Escanaba
PO Box 948
Escanaba, MI 49849

Dear Daina:

I have attached an engagement agreement for the City and have also provided it to Mr. O'Toole. For your reference, I reduced our hourly rate from the Menards matter as the proposed engagement is for multiple properties and these matters are less complex. My rate is \$275 an hour and Crystal Morgan's rate is \$225 an hour. The majority of cost is attorney fees. We estimate that the total expenses for the appeal to range from \$10,000 to \$35,000 for all three cases up to the point of a trial.

As we discussed, our representation is largely to perform the legal aspects of your defense and prepare the City for a trial in the event a trial occurs but to allow you to settle the case. Some of these tasks (i.e. filing answers or responsive pleadings) you can complete, and we will review, revise, edit and file under our letterhead. *If you are unable to resolve the matter and trial is inevitable, we will be there to assist. Aside from saving legal fees, this gives the opposing side encourage to settle and to settle at numbers that are favorable to the City.*

Obviously cost range is an estimate and actual amounts may vary. To provide further perspective, I am providing the following outline of the likely steps with rough cost estimates. Please note that not all these steps are required. We will advise and you will decide whether to proceed to the next step.

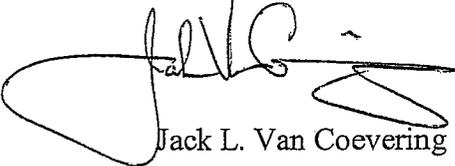
1. File Appearance and attend to other correspondence with Tribunal. (\$2,000 to \$5,000)
2. Prepare and file discovery requests and respond to discovery requests. (\$3,000 to \$12,000)
3. Obtain and work with appraisers, appraisal review, develop the defense theories and evidence, etc. (\$2,000 to \$5,000)
4. Prepare and file motions regarding discovery or basic jurisdictional motions. Oral Argument: research, prepare exhibits, prepare for and present oral argument. (\$5,000 to \$6,000)

5. Review, revise and file Prehearing Statements, exhibit lists and other required Prehearing materials. (\$1,000 to \$4,000)

Because of the impact of this case to other properties in Delta County, I recommend that the City pursue a Cost-Sharing Agreement with other local jurisdictions and the State of Michigan. A Cost-Sharing Agreement allocates the cost of litigation to all local tax collecting units by some formula, typically reflecting a local unit's percentage of the total millage assessed. We have not included the cost of assisting you with a Cost-Sharing Agreement but it is not significant.

I hope this helps. Please share this information with the City Manager. We would like to work with you to work for the City and assist you in defending your tax roll. To that end, we would welcome the opportunity to discuss this with you, your City Manager or elected officials.

Very truly yours,



Jack L. Van Coevering