



City Administrator's Weekly Update

WEEK ENDING JANUARY 27, 2017

Upcoming Events:

January 31, 4:15 pm
Library Board
Public Library

February 1, 8:00 am
EDA
City Hall

February 6, 4:30 pm
Parks Commission
City Hall

February 7, 5:30 pm
Council Work Session
City Hall

February 7, 7:00 pm
City Council Meeting
City Hall

February 15, 6:00 pm
CAFD Board
Station 2 - Perch Lake

February 21, 5:30 pm
Council Work Session
City Hall

February 21, 7:00 pm
City Council Meeting
City Hall

February 28, 4:15 pm
Library Board
Public Library

February 28, 7:00 pm
Planning Commission
City Hall

Administration/Finance

Personnel

As of this week, it appears that Raiter Clinic and BCBS have come to a settlement for 2017. This means there should be no change in health insurance coverage at the clinic during 2017. If such agreement had not been reached by February 1st, City employees would have had no coverage for visiting the clinic. So this is great news!

Budget/CIP

The 2017 budget document is complete and Nancy will be working on the 2017-2021 CIP books this weekend. We're hoping the CIP will be available next week. As always, the documents will be posted on the City website for all to access.

OSHA Visit

OSHA toured all of the City's facilities this week on an invited visit to review our operations from a safety perspective. We have used this approach in the past to be proactive in our management of safety. While the final report will not be issued for a while, the preliminary feedback was no major concerns or problems were identified.

Land Use Law

With the Landfill CUP application being considered by the City, there has been a great deal of conversation within the community regarding the voice of the people. Land Use Law is always very complicated which is why we encourage our Planning Commission to attend regular training on the subject. With all of the questions, the attached informational memo published by the League of Minnesota Cities may be of interest.

Public Works/Parks

Miscellaneous

Wow, the warm weather has been great but unfortunately it makes such a negative impact on our winter park activities. As mentioned last week, we were unable to open the Tubing Hill at Pine Valley (behind hockey arena) due to loss of snow. We have also lost much of the outdoor ice and have just re-opened the warming houses after closing last weekend due to the rain and rink conditions. Hopefully it will get cold enough so we can re-flood the rinks.

The Chamber Trail Committee continues to meet to look at the proposed Munger Trail connection project. The Committee is still struggling with the challenges of a multi-jurisdictional project in terms of project funding.

This week we ordered another 10 street light decorations for the Christmas season. The 36-inch snowflake decorations are all lit with LED lights and as discussed during the budget, will hopefully be the start of the replacement and purchase of new decorations for the next few years.

MN Wilderness/CAHA

Staff met again this week with representatives of CAHA to continue discussions of the financial challenges of operating the facility. Staff will be evaluating the information gathered from this meeting as well as the information gathered last week when we met with the owners of the Minnesota Wilderness junior hockey team to try and identify a plan.

Dave Hallback, Mayor

City Council Members:

Jeff Rock, Ward 1
David Bjerkness, Ward 2
Roger Maki, Ward 3
Kerry Kolodge, Ward 4
Steve Langley, Ward 5
Adam Bailey, At Large

Brian Fritsinger,
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Community Development Development

Friends of Animals were issued a building permit this week to start work on the redevelopment of the former County Human Services building located on Avenue B. FOA is looking to get the improvements completed over the next few months so that they can relocate from their Highway 33 location.

Speaking of Human Services, Carlton County has leased the Wehr property on Avenue B to accommodate additional office/space needs of the department.

Best Oil Company closed on the purchase of the former Cloquet Home Center this week. Approximately 15 employees will be based out of this new facility. The one down side to this sale was the loss of about \$30,000 in economic development loan monies as a result of the closure of the Home Center.

Staff traveled to St. Paul this week to meet with the Department of Natural Resources to keep the lines of communication open regarding future redevelopment options of the DNR property along Highway 33. Even with the recent termination of the agreement with Ryan Companies, the DNR continues to express a willingness to work cooperatively with the City should the right project come along.

Beyond that, things seem to be very busy in the Community Development Department with some uptick in potential construction projects during 2017.

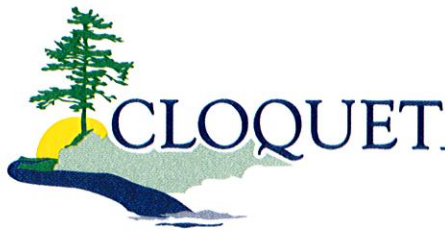
***"Care about people's approval and you will be their prisoner."
- Laozi, philosopher***

Other Information Attached:

- * December 2016 Financial Report
- * LMC Informational Memo: Land Use, The Neighbor Factor



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January 25, 2017

Dear Brian Fritsinger, City Administrator:

Enclosed is the monthly financial report and cash and investment analysis for December 2016.

Cash and Investments

Cash balances are 7% below December 2015. A narrative and several spreadsheets discussing this month's cash and investment activities, and balances are attached.

Budgets

Revenues/Transfers in – Interest is \$141,500 below budget since rates haven't increased as fast as predicted by economist. Rates were increased in December. MSA maintenance is \$48,000 above budget mostly since the City received 2014 & 2015 final pay-outs early 2016. SAPPI waterline sales are starting to track closer to budget.

Expenditures/Expenses – Selected department and fund expenditures/expenses are analyzed on the following worksheets.

Major Revenues and Expenditures/Expenses

Revenues:

State \$80,700 for City Sales Tax, \$1,178,200 for local government aid LGA. Carlton County \$2.25 million for property taxes for the City and CAFD.

Expenditures/Expenses:

American Cast Iron Pipe Co. \$22,800 for LSW 36" gaged pipe. George Bougalis & Sons \$312,300 for Fauley & Vets improvements. Graves Well Drilling \$18,500 for LSW grout casing pipe. Omar's Sand and Gravel \$38,400 for washed sand and screened crushed rock. S E H \$72,900 for park design.

If you have questions, please feel free to let me know.

Respectfully,

Nancy M. Klassen, CPA, CPFO
Finance Director

City of Cloquet
Select Departmental and Funds Expenditure/Expense Budget Report for December
2016

Fund	2016 Budget	YTD Expend/Expense Budget	YTD Expenditures/ Expenses	Over (Under) Budget	Over (Under) %	
General						
Administration	346,900	346,900	259,597	(87,303)	-25%	1
Finance	202,300	202,300	175,693	(26,607)	-13%	2
Law	95,000	95,000	119,294	24,294	26%	3
Planning and Zoning	225,300	225,300	197,563	(27,737)	-12%	4
Police	2,560,650	2,560,650	2,459,944	(100,706)	-4%	
Hwy, Streets & Rwy	1,024,600	1,024,600	956,057	(68,543)	-7%	
Library	541,600	541,600	530,323	(11,277)	-2%	
Park	546,150	546,150	557,672	11,522	2%	
Water - LSWL	2,370,550	2,370,550	2,566,778	196,228	8%	
Water - In Town	2,015,500	2,015,500	1,352,712	(662,788)	-33%	5
Sewer	1,571,000	1,571,000	1,452,704	(118,296)	-8%	
Storm Water	200,050	200,050	146,481	(53,569)	-27%	5
Cable TV	169,225	169,225	143,930	(25,295)	-15%	6

Note: Does not include transfers.

Explanation of (over) budget \$10,000 & 10%.

- 1 - Furniture for Assistant City Administrator and new fixed fee computer maintenance contract charged to admin. less community sign not purchased to date, and microfiche project below budget.
- 2 - Part time position not hired to date.
- 3 - Prosecution costs running higher than expected.
- 4 - Mostly consultant fees and nuisance costs running below budget.
- 5 - Improvements not charged to fund yet.
- 6 - Equipment not purchased yet.

Filename: Expenditure-expense budget report

City of Cloquet
 Select Departmental and Funds Payroll Expenditure/Expense Budget Report as of December
 2016
 Payroll Overtime

Fund	2014 Total	2015 Total	2016 Budget	YTD Expend/ Expense Budget	YTD Expenditures/ Expenses	Over (Under) Budget	(Over) Under %	
General								
Police	138,357	131,867						
Holiday			48,000	48,000	39,353	(8,647)	-18%	
Regular			22,000	22,000	65,994	43,994	200%	1
Reimbursed			25,000	25,000	8,550	(16,450)	-66%	
Hwy & St	51,578	22,459	25,000	25,000	28,205	3,205	13%	
Water - LSWL	49,245	26,737	35,500	35,500	22,664	(12,836)	-36%	2
Water In Town	29,046	12,494	16,000	16,000	19,466	3,466	22%	
Sewer	12,208	8,912	10,500	10,500	7,410	(3,090)	-29%	2
Storm Water	6,836	2,569	5,000	5,000	6,197	1,197	24%	

Explanation of (over) budget

- 1 - Short staffed - new positions hired in May and replacement hired in Nov., one gone and two on FMLA during year.
Regular salaries running below budget.
- 2 - Overtime for LSW railroad leak charged to leak line item.

Filename: Expenditure-expense budget report

*City of Cloquet
Cash and Investments
Management Summary
December 31, 2016*

Analysis of Portfolio

Attached is a “Cash and Investment Analysis” which shows the type of accounts and values that make up the City’s cash and investment portfolio.

Current Economics

The economy is still on the slow but steady pace. The State’s budget outlook remains stable. The November 2016 forecast projects a \$1.4 billion balance for the FY 2018-19. The current biennium surplus is projected at \$678 million, after the statutory allocation of \$334 million to the budget reserve. Unemployment is at 4.7% for December.

The City’s certified 2017 LGA is \$2,363,635 approximately \$7,100 more than 2016 and the City increased its levy by 5.69% for 2017. There will be a health insurance premium increase for the City for 2017 of 27.4%. This is almost \$150,000 more per year for the employer (70%) and employee (30%) combined.

Current Activity

During the month of December a municipal bond matured for \$200,000. The proceeds plus cash received from LGA and property taxes were used to purchase agencies for \$725,000, a municipal bond for \$500,000 and CDs for \$980,000. Attached is an “Investment Portfolio Analysis” with the detail of investments.

Variance Analysis

Cash and investments are 7% below December 2015. The decrease is due to capital spending on sales tax and infrastructure projects.

The federal benchmark interest rate was raised in December 2016 to .50% to .75% from .25% to .50%. It is expected there will be three more increases in 2017. Attached is an “Interest Earnings Analysis” which details the average balances invested, rate of return, and prior year rates.

The budgeted interest earnings are \$336,000 for 2016. The City’s investment annualized yield is approximately \$205,300 or 1.51% for 2016. The actual interest receipts for 2016 are \$230,700. The 2016 budget is based on the economy and interest rates increasing.

Other

Goals for future – Yearly analysis report of cash balances, investments, and interest earnings (partially added to the annual report in 2007). More financial and cash flow planning in 2017 (as time permits).

**City of Cloquet
Cash Balances
December
2016**

Fund #	Fund	Amount
101	General	4,680,236.53
201	LDO Loan (EDA)	330,362.00
202	Federal CDBG Loan (EDA)	843,450.24
203	Economic Development Loan (City)	125,553.69
204	State SCDG/MIF (EDA)	129,857.76
206	Revolving SCGP (EDA)	-
207	Community Development Operating (City)	(39,667.91)
208	SCDP - 2016 (City)	37.46
211	Library	111,267.85
220	TIF - Daqota/Woodward	15,349.82
221	TIF - 14th Street Apartments	11,338.40
222	TIF - Oak Street Apartments	60,732.49
224	Building Facilities Planning	1,544,300.00
225	Permanent Improvement	345,289.22
226	Park	178,354.53
226	Park - Restricted - In Lieu	37,924.41
226	Park - Skate Park	2,640.85
228	Senior Center	(9,450.89)
231	Public Works Reserve	517,808.95
260	Landfill Host Fee - 25%	74,450.41
260	Landfill Host Fee - 75%	229,521.50
368	Business Park Bonds	1,420,786.86
370	Swimming Pond Bonds	113,837.76
403	Capital Projects - Revolving	(1,099,057.14)
405	City Sales Tax Capital Projects	513,496.95
600	Water - Lake Superior Waterline	731,292.61
600	Water - Lake Superior Waterline Construction	429,990.33
601	Water In Town	3,366,198.29
601	Water - Debt Service	233,619.75
602	Sewer	1,107,918.73
605	Storm Water	94,002.74
614	Cable TV	206,045.99
701	Employee severance	604,955.11
905	Cloquet Area Fire District	1,655,513.76
	Total	18,567,959.05

City of Cloquet
Cash and Investment Analysis
December 31, 2016

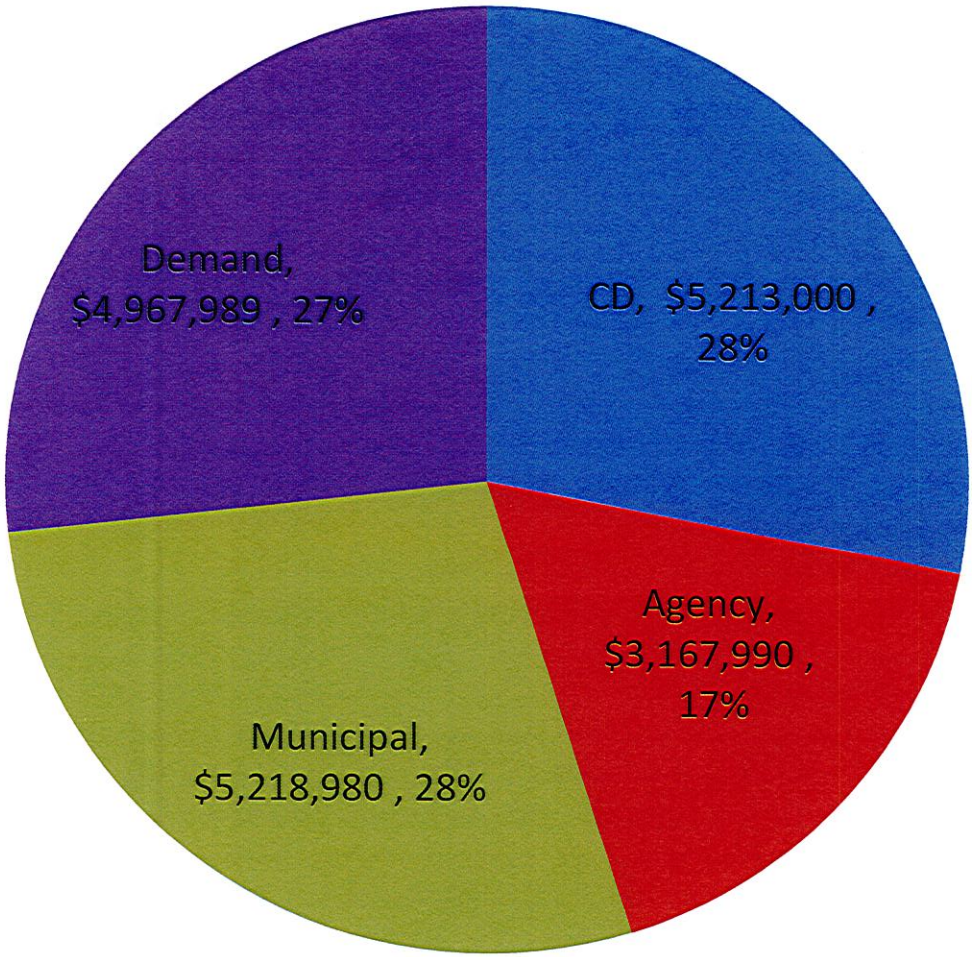
	Tentative Goals	Current 12/31/2016	11/30/2016	10/31/2016	9/30/2016	Last Year 12/31/2015
<u>DEMAND ACCOUNTS</u>						
Checking & MM & Savings	10%-15%	\$4,967,989.27 27%	\$4,677,179.25 29%	\$5,399,997.17 32%	\$5,118,034.55 30%	\$5,245,061.03 26%
<u>INVESTMENTS</u>						
<u>Invested less than one year</u>						
Certificates of Deposit		\$2,133,000.00	\$1,153,000.00	\$1,235,000.00	\$1,135,000.00	\$3,690,000.00
Municipal Bonds		\$2,667,468.64	\$1,858,887.58	\$1,858,887.58	\$1,858,887.58	\$639,394.93
Government Agencies		\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Total invested less than one year	50%-70%	\$4,800,468.64 26%	\$3,011,887.58 19%	\$3,093,887.58 18%	\$2,993,887.58 17%	\$4,329,394.93 22%
<u>Invested one to three years</u>						
Certificates of Deposit		\$1,579,000.00	\$1,579,000.00	\$1,647,000.00	\$1,647,000.00	\$1,994,000.00
Municipal Bonds		\$1,727,214.75	\$2,239,851.00	\$2,239,851.00	\$2,239,851.00	\$3,625,151.37
Government Agencies*		\$497,990.00	\$0.00	\$0.00	\$500,000.00	\$500,000.00
Total invested one to three years	10%-20%	\$3,804,204.75 20%	\$3,818,851.00 23%	\$3,886,851.00 23%	\$4,386,851.00 26%	\$6,119,151.37 31%
<u>Invested over three years</u>						
Certificates of Deposit		\$1,501,000.00	\$1,501,000.00	\$1,501,000.00	\$1,596,000.00	\$1,739,000.00
Municipal Bonds		\$824,296.39	\$824,296.39	\$824,296.39	\$315,572.50	\$0.00
Government Agencies *		\$2,670,000.00	\$2,445,000.00	\$2,285,000.00	\$2,785,541.67	\$2,595,538.67
Total invested over three years	10%-20%	\$4,995,296.39 27%	\$4,770,296.39 29%	\$4,610,296.39 27%	\$4,697,114.17 27%	\$4,334,538.67 22%
Total	100%	\$18,567,959.05	\$16,278,214.22	\$16,991,032.14	\$17,195,887.30	\$20,028,146.00
Current month variance			\$2,289,744.83 14%	\$1,576,926.91 9%	\$1,372,071.75 8%	(\$1,460,186.95) -7%

* - Most of these investments have call dates less than one year.

Note:

The over three year period exceeds the goals but several investments are priced to call and will not be held over one year.

**City of Cloquet
Cash & Investments
12/31/2016**



City of Cloquet
Investment Portfolio Analysis
Detail of Investments December 31, 2016

Brokerage	Purchase Date	Maturity Date	Time Held	Description	Amount	YTM Rate	Annualized Yield	Market Value
Invested less than one year								
Certificates of Deposit								
UBS Financial	8/5/2015	2/6/2017	2 1/2 yrs	Sallie Mae Bank UT	\$245,000.00	0.850%	\$2,082.50	\$245,058.80
Wells Fargo	12/16/2016	3/16/2017	3 months	Merchants Bank IND	\$245,000.00	0.650%	\$1,592.50	\$245,023.52
Morgan Stanley	6/8/2012	6/8/2017	5 yrs	World Financial DE	\$200,000.00	1.850%	\$3,700.00	\$200,944.00
Wells Fargo	12/19/2016	6/14/2017	6 months	Bank of India NY	\$245,000.00	0.800%	\$1,960.00	\$245,084.04
Morgan Stanley	6/22/2012	6/22/2017	5 yrs	St Bank of India NY	\$245,000.00	2.000%	\$4,900.00	\$246,460.20
Wells Fargo	7/24/2014	7/24/2017	3 yrs	American Express Fed Sv	\$245,000.00	1.150%	\$2,817.50	\$245,445.41
UBS Financial	8/31/2015	8/31/2017	2 yrs	Oriental Bank PR	\$50,000.00	1.250%	\$625.00	\$50,113.50
Wells Fargo	12/21/2016	9/20/2017	9 months	Beal Bank	\$245,000.00	0.900%	\$2,205.00	\$245,037.98
UBS Financial	10/19/2012	10/19/2017	5 yrs	Boston Prvt B&T MA	\$100,000.00	1.000%	\$1,000.00	\$100,063.00
Morgan Stanley	11/25/2013	11/24/2017	4 yrs	Comenity Bk UT	\$68,000.00	1.400%	\$952.00	\$68,384.20
Wells Fargo	12/15/2016	12/14/2017	1 yr	Safa National Bank	\$245,000.00	0.900%	\$2,205.00	\$244,752.31
					\$2,133,000.00		\$24,039.50	\$2,136,366.96
Municipals								
Wells Fargo	11/4/2010	2/1/2017	6 1/2 yrs	Bloomington MN BAB	\$202,324.00	2.100%	\$4,248.80	\$200,216.00
Wells Fargo	1/7/2009	2/1/2017	7 yrs	Osseo MN ISD 279	\$218,141.70	5.400%	\$11,779.65	\$210,772.80
Wells Fargo	6/11/2015	2/1/2017	1 1/2 yrs	St Paul MN ISD	\$502,845.00	1.000%	\$5,028.45	\$500,030.00
Wells Fargo	1/31/2014	3/1/2017	3 yrs	Menomonie WI Txbl	\$340,204.15	0.970%	\$3,299.98	\$330,310.20
Wells Fargo	9/4/2014	4/1/2017	2 1/2 yrs	St Francis MN ISD	\$166,137.00	0.900%	\$1,495.23	\$151,165.50
Wells Fargo	8/19/2015	8/1/2017	2 yrs	State of MN GO	\$221,654.40	0.860%	\$1,906.23	\$220,501.60
Wells Fargo	12/13/2016	8/15/2017	8 months	Columbus OH Txbl	\$503,526.14	0.850%	\$4,279.97	\$501,385.00
UBS Financial	12/1/2010	12/1/2017	7 yrs	Stamford CT	\$512,636.25	2.759%	\$14,143.63	\$505,260.00
					\$2,667,468.64		\$46,181.95	\$2,619,641.10
Invested one to three years								
Certificates of Deposit								
Frandsen Bank	9/5/2016	3/5/2018	1 1/2 yrs	Frandsen Bank	\$245,000.00	0.300%	\$735.00	\$245,000.00
Morgan Stanley	3/12/2014	3/14/2018	4 yrs	GE Capital Ret BK UT	\$210,000.00	1.500%	\$3,150.00	\$211,001.70
Morgan Stanley	6/28/2013	6/28/2018	5 yrs	BMW Bk - UT	\$96,000.00	1.650%	\$1,584.00	\$96,209.28
Morgan Stanley	10/2/2013	10/2/2018	5 yrs	Discover Bk DE	\$145,000.00	2.050%	\$2,972.50	\$146,928.50
Morgan Stanley	10/28/2013	10/29/2018	5 yrs	Bank Baroda NY	\$245,000.00	2.050%	\$5,022.50	\$247,802.80
UBS Financial	4/16/2014	4/16/2019	5 yrs	Wells Fargo	\$240,000.00	1.000%	\$2,400.00	\$240,216.00
Morgan Stanley	4/29/2014	4/29/2019	5 yrs	Barclays Bk DE	\$45,000.00	1.900%	\$855.00	\$45,579.60
Morgan Stanley	8/8/2015	8/5/2019	5 yrs	Capital One NA Mclean VA	\$108,000.00	2.050%	\$2,214.00	\$109,366.20
Morgan Stanley	10/16/2014	10/16/2019	5 yrs	Capital One Bank VA	\$245,000.00	2.150%	\$5,267.50	\$248,785.25
					\$1,579,000.00		\$24,200.50	\$1,599,889.33
Municipals								
Wells Fargo	1/14/2014	2/1/2018	4 yrs	Anoka County MN	\$567,323.75	1.480%	\$8,396.39	\$516,500.00
Wells Fargo	7/26/2012	2/1/2018	6 1/2 yrs	North Branch MN ISD 138	\$121,040.56	1.260%	\$1,525.11	\$103,788.00
Wells Fargo	10/7/2010	8/1/2018	8 yrs	U of M Build America	\$260,748.16	2.700%	\$7,040.20	\$257,290.00
UBS Financial	12/4/2012	11/1/2018	6 yrs	NY City Transition	\$360,038.40	1.280%	\$4,608.49	\$357,789.60
Wells Fargo	12/1/2010	12/21/2018	8 yrs	Weston WS BAB	\$152,058.00	3.550%	\$5,398.06	\$155,998.50
UBS Financial	2/25/2016	1/1/2019	3+ yrs	Industry Calif Pub Facs Aut	\$266,005.88	1.447%	\$3,849.11	\$255,767.50
					\$1,727,214.75		\$30,817.36	\$1,647,133.60
Government Agencies								
Wells Fargo	12/19/2016	12/19/2019	3 yrs	FFCB	\$497,990.00	1.638%	\$8,157.08	\$499,481.50
Invested over three years								
Certificates of Deposit								
Morgan Stanley	1/28/2015	1/28/2020	5 yrs	Goldman Sachs - UT	\$96,000.00	2.048%	\$1,966.08	\$97,190.40
UBS Financial	2/27/2015	2/27/2020	5 yrs	Private Bank & Tr IL	\$240,000.00	1.750%	\$4,200.00	\$243,576.00
UBS Financial	4/13/2015	4/13/2020	5 yrs	HSBC Bk VA	\$240,000.00	1.125%	\$2,700.00	\$239,896.80
Morgan Stanley	5/7/2015	5/7/2020	5 yrs	Amex Centurion UT	\$185,000.00	1.950%	\$3,607.50	\$186,753.80
Morgan Stanley	9/2/2015	9/2/2020	5 yrs	Capital One MN Mclean VA	\$100,000.00	2.200%	\$2,200.00	\$101,970.00
Morgan Stanley	10/14/2016	10/14/2020	5 yrs	First Bank PR Santurce	\$150,000.00	1.450%	\$2,175.00	\$148,225.50
UBS Financial	9/16/2016	9/16/2021	5 yrs	JPMorgan Chase Bk OH	\$245,000.00	1.500%	\$3,675.00	\$238,941.15
UBS Financial	9/23/2016	9/23/2021	5 yrs	Happy State Bank TX	\$245,000.00	1.500%	\$3,675.00	\$239,044.05
					\$1,501,000.00		\$24,198.58	\$1,495,597.70
Municipals								
UBS Financial	8/1/2016	7/1/2021	5 yrs	Florida St Rev Ser	\$315,572.50	1.583%	\$4,995.51	\$304,383.00
UBS Financial	10/27/2016	7/1/2025	9 yrs	Selma Ala Rfdg	\$508,723.89	2.400%	\$12,209.37	\$474,960.00
					\$824,296.39		\$17,204.89	\$779,343.00
Government Agencies								
UBS Financial	12/30/2016	12/30/2021	5 yrs	FHLB	\$225,000.00	2.000%	\$4,500.00	\$224,880.75
Morgan Stanley	11/22/2016	11/22/2023	7 yrs	FHLB	\$160,000.00	1.375%	\$2,200.00	\$156,939.20
Morgan Stanley	3/28/2016	3/28/2024	8 yrs	FNMA	\$640,000.00	1.250%	\$8,000.00	\$638,438.40
Morgan Stanley	6/14/2016	6/14/2024	8 yrs	FHLMC	\$500,000.00	1.500%	\$7,500.00	\$491,830.00
Morgan Stanley	9/30/2016	9/30/2024	8 yrs	FHLMC	\$270,000.00	1.250%	\$3,375.00	\$265,150.80
Morgan Stanley	7/27/2016	7/27/2026	10 yrs	FHLMC	\$500,000.00	1.500%	\$7,500.00	\$477,890.00
Morgan Stanley	8/17/2016	8/17/2026	10 yrs	FHLMC	\$375,000.00	1.500%	\$5,625.00	\$359,523.75
					\$2,670,000.00		\$38,700.00	\$2,614,652.90
Totals					\$13,599,969.78		\$205,342.78	\$13,383,106.09

1.51%

Note: Market value fluctuates based on current rates being offered. No principal is at risk if securities are held to maturity.

Filename: Monthly Report - Investment Detail

City of Cloquet
Interest Earnings Analysis
Month Ending December
2016

Type	%	Invested Balance	Interest	Rate of Return
Money Markets	19%	\$2,872,182.78	\$907.82	0.37%
CD's*	30%	\$4,597,266.86	\$5,812.12	1.49%
Municipals*	33%	\$5,024,066.44	\$7,531.15	1.76%
Government agencies*	18%	\$2,668,350.65	\$3,220.33	1.42%
Total Investment Return*	81%	\$12,289,683.95	\$16,563.60	1.64%
Total Return	100%	\$15,161,866.73	\$17,471.42	1.40%

Earnings Comparison	Budget	YTD Budget	YTD Actual
2016 Interest Earnings	\$ 336,000.00	\$ 336,000.00	\$194,481.87
2015 Interest Earnings	\$ 282,800.00	\$ 282,800.00	\$194,343.76
2014 Interest Earnings	\$ 453,000.00	\$ 453,000.00	\$206,386.98

Rate Comparisons	Current	Revised	Last Year	Two Years
	December 2016	Last Month	December 2015	December 2014
Average Total Return	1.40%	1.41%	1.28%	1.09%
Average Investment Return*	1.64%	1.61%	1.37%	1.37%

Filename: Monthly Report - Interest Earnings Analysis 2016



INFORMATION MEMO

Land Use: The Neighbor Factor

Learn how to educate city residents about the land use process and encourage public participation to foster civility and responsible decision-making.

RELEVANT LINKS:

U.S. Const. Amend. V.

I. Resident point of view

Residents are often at their most demanding when it comes to issues of land use—especially projects that are close to their homes.

Imagine this: You want to build a garage at your house. What would you think if you had to get permission from all of your neighbors? What if the neighbors voted on what your garage should look like? What if the neighborhood merely had veto power over your choice of garage? This, of course, is highly unlikely. Yet if you attend land use hearings at city councils or planning commissions, it may sound familiar. Perhaps some of these sentiments have come up in your city:

- “We don’t need another fast food restaurant here.”
- “We already have too many apartment buildings in this town.”
- “We need more daycare options. You should build a daycare on this lot.”

While almost no one expects to be subject to the whims of their neighbors, some neighbors are quite willing to make demands on the land uses of other property owners. When is this allowed? Obviously some neighborhood input is acceptable. Land use laws require all kinds of public notice, public input, and public hearings. Those must be required for a reason, right? What would that reason be if not to get input from neighbors?

II. Brief history of land use regulation

It is useful to start with a little legal theory and history. The general assumption about land ownership is that property owners have a right to any legal use of their land. The ability to use private property is a fundamental tenet of American democracy. It is so important, in fact, that it is addressed in the Bill of Rights, which says no one can “be deprived of life, liberty, or property, without due process of law.” Land use regulations do deprive owners of their property rights, by limiting what they can do with their property. You may want to build a very profitable factory on your land, but local zoning regulations can limit you to building a modest house. That’s a significant deprivation. Therefore, government can only regulate land use through “due process of law.”

This material is provided as general information and is not a substitute for legal advice. Consult your attorney for advice concerning specific situations.

RELEVANT LINKS:

Minn. Stat. §§ 462.351 - 365.

Learn about conditional use permits and variances in: LMC information memo, *Land Use Variances* and LMC information memo, *Land Use Conditional Use Permits*.

See LMC information memo, *Taking the Mystery out of Findings of Fact*.

With land use issues, due process of law means having clear authority and following that authority. Cities have no inherent land use authority. This may seem like a limitation, except that cities have broad legislative authority to create their own land use regulations, by adopting ordinances. Cities literally get to write their own rules. This creates a fundamental tension. On one hand, cities have broad power to create and administer land use regulations. On the other hand, property owners have broad rights to use their property.

In attempting to resolve this tension, courts tend to interpret land use regulations narrowly and in favor of property owners. This makes sense for a few reasons. First, land use regulations are limits on the traditional right to use land. In addition, cities have the ability to write the regulations themselves. Since cities get the advantage of writing the rules, courts tend to be somewhat merciless when applying them. It is hard to explain that a city should be able to avoid the requirements of an ordinance that the city itself established.

Because property rights cannot be restricted without due process of law, and because those laws are interpreted narrowly, property owners rightfully develop some expectations. Property owners expect to be able to read city ordinances and understand what they are allowed to do with their land. Ordinances must give some reasonable clarity about what uses are allowed and under what conditions.

It is difficult or impossible to anticipate and regulate every possible use of land, so ordinances usually have some built-in flexibility. Most ordinances have a conditional use permit process, which may allow a proposed use if it meets certain conditions. Most ordinances also have variance provisions, which allow property owners to vary from the strict terms of the ordinance. This flexibility gives cities the discretion to make case-by-case determinations on specific land uses. This flexibility, however, is limited. When cities apply the regulations they have written, they act quasi-judicially. Like judges, they must apply the written laws to the facts of a specific case. The city's job in making discretionary land use decisions is to determine the facts of a specific application and apply those facts under the applicable law.

This is the setting for most land use controversies: a proposed use requires some kind of discretionary decision like a conditional use permit or a variance. Such a discretionary decision is made through a public process. What role can the neighbors play in this process?

RELEVANT LINKS:

See LMC information memo,
Public Hearings.

III. Resident involvement

First, it is important to recognize that neighbors have legitimate interests. While property owners may develop expectations about the regulation of their own land, they also develop expectations of neighboring property. If a city's zoning ordinance states a neighborhood will remain residential, homeowners in the area rely on that information. Even though neighbors have legitimate interests, their rights are limited. Neighborhood input often involves residents advocating for regulations of someone else's property. But these residents do not get to make decisions about the use of someone else's property any more than they might have the right to vote on your garage.

Residents do have a right to participate in the process: to present evidence, to ask questions, and to argue about the correct interpretation of regulations. Residents do not have the right to dictate the terms of use for someone else's property. The role of the public (residents and non-residents) is not to offer opinions about the best or preferred uses of property, nor is it to present a wish list of things they would rather see. The role of the public is to present factual evidence to city decision makers.

IV. Managing public input

For city officials, the process of public input can be difficult to manage. While residents theoretically have a limited role, they can be a dominating political force. This can be especially true if the project proposer is an out-of-town developer with an unpopular project, and the opponents are an organized force of politically active local voters. A city council can quickly find itself facing a council chamber packed with angry residents.

Public hearings can seem like barely contained chaos: opponent after opponent will make fiery statements against the proposed project, with the chamber erupting into applause after each one. Signs are waved. Proponents are booed. The process may not seem very judicial. Beyond the controversial setting this creates, rowdy public opposition can cause legal problems, too. The city should act like a judge: to discover the facts of a specific application and to apply the requirements of a specific regulation. The appearance that a city made a decision based on a project's popularity can result in legal challenges. What can be done to avoid such a situation? Below are a few suggestions.

A. Address potential problems early

The best approach to “out-of-control controversy” is to prevent it from ever happening. Cities should make efforts to involve residents early in the planning and zoning process. When cities use their legislative power to create land use regulations, they have very broad authority. The best place to deal with land use concerns is when the regulations are created. If the desired result is a prohibition of big-box retail stores, the zoning ordinance should be written accordingly.

Acting early has a number of benefits. First, cities have the most discretion when acting legislatively (making law in the form of ordinances). Courts will uphold almost any reasonable regulation of land if it is part of a properly adopted zoning ordinance. Second, property owners will develop reasonable expectations about what uses are allowed. This may head off potential conflicts. Addressing potential problems early makes a lot of sense, especially if you anticipate a scenario like this: A big-box store buys land in a commercially zoned area, develops plans, and then applies for a conditional use permit. By this time they have established some expectations and made substantial investments of time and money. Any attempt to restrict the development will meet substantially increased opposition.

B. Educate the public

Cities should actively encourage public input and participation in the planning and zoning process. Get input early—before the developer is at the door with an application in hand. Educate residents about the importance of planning and zoning and how it can impact their neighborhoods. Of course, it certainly seems that no one pays attention to land use until a controversial project comes to town. That doesn’t mean it is too late to educate residents about the process. But it does complicate the situation.

During a controversial hearing process, it becomes even more important to educate residents about how regulations work. Begin hearings with a message clearly describing the process. Start by answering these questions for participants:

RELEVANT LINKS:

- What is the proposed project?
- What approval is being sought? Perhaps hand out or display the specific regulation or question at issue.
- What are the terms of the specific land use regulation?
- How much discretion does the city have? Is it a legislative question? Or is it a quasi-judicial question in which the city is limited by the terms of the regulations?
- What are the rules of the hearing? How will it be conducted? How much time is each speaker allowed? What about applause or sign waving?

The key is to help residents understand what the rules are and how they should be applied. Most people understand the determination of whether or not they get to build a garage is not based on the results of a popularity contest. Residents who understand that the city must adopt and follow rules are less likely to create controversy over city council land use decisions—even when those decisions are unpopular.

V. Further assistance

LMCIT offers land use consultations, training and information to members. Contact the League's Loss Control Land Use Attorney for assistance. You can also learn more about land use issues in the land use section of the League's website.

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League of Minnesota Cities.