

1. Agenda And Packet

Documents:

[MAY 6, 2019 WORK SESSION AGENDA.PDF](#)

[05.06.19 - WORK SESSION AGENDA AND PACKET.PDF](#)

City of Excelsior

City Council Work Session

AGENDA

Monday, May 6, 2019

NEW LOCATION – FORMER LIBRARY

343 Third Street

5:30 P.M.

1. Call to Order/Roll Call
2. Agenda Approval
3. Joint Session with Council, Park and Recreation Commission, and Community for The Commons
4. Adjournment

Note: The purpose of a Work Session is for the Council to discuss matters informally and in greater detail than is allowed at formal Council meetings. All meetings of the Council including Work Sessions will be open to the public. While the privilege of participating in these discussions is generally limited to the Council, staff, and consultants, the Mayor may open a discussion from the floor.



MEMORANDUM

Work Session Item 1 – Joint Work
Session of the City Council and the

Re: Park and Rec Commission

Date: May 6, 2019

To: City Council

From: Kelly Horn, Finance Officer

Attached are the following items for review and discussion:

- April 2019 Park Improvement Fund Operating Statement
- Charitable Gambling Contributions – Eligible Expenses
 - The City must only spend funds on lawful purpose expenditures as defined in MN Statute 349.12, subdivision 7a. Other applicable statutes for the City regarding the use of Charitable Gambling proceeds are MN Statute 349.213 and 349.12 subdivision 25a, (1) to (7), (10) to (15), and (19). See attached statutes.
 - The Gazebo Gateway project is not eligible to be funded using Charitable Gambling Contributions.
 - Other options include the playground, bandshell, ball field, tennis courts, great lawn, etc.
 - The city needs to designate a different use of City's Charitable Gambling Fund Balance
- Commitment of additional Park Improvement Fund Balance to the Commons Master Plan
 - Councilmember Miller proposal
- Goal Setting
 - Research Options to Replace the Gazebo by TCF Bank
 - Revisit the Mooring Policy and Ordinance at the End of the Dock Season and Recommend Any Changes to the Council
 - Explore Installing a Trail in Excelsior-Studer Park

City of Excelsior
Park Capital Improvement Fund
As of 04/29/2019

PARK IMPROVEMENT FUND	2019 Budget	April 2019 Actual	2019 YTD Actual	
Park Improvements				
Revenue				
Grant Revenue - Shoreline Restoration	16,000	-	-	(Shoreline Restoration)
Interest Earnings	2,000	-	-	
Charitable Gambling - Designated Donations	7,500	2,497	2,497	
Transfers From Other Funds	100,000	154,000	154,000	(\$54K from Ice Castle Parking Meters, \$100K From Dock Fund)
	<u>125,500</u>	<u>156,497</u>	<u>156,497</u>	
Expenditures				
Park Dedication Fees	-	-	-	
Professional Services	25,000	17,095	17,095	(Engineering for Gazebo Gateway / Mitten Pond, Shoreline Restoration)
Improvements Other Than Bldgs	20,000	-	-	(Shoreline Restoration)
Improvements - Playground Equip	-	-	-	
Improvements - Charitable Gambling	50,000	-	-	(Gazebo Gateway / Mitten Pond)
Transfers To Other Funds	-	-	-	
	<u>95,000</u>	<u>17,095</u>	<u>17,095</u>	
	<u>30,500</u>	<u>139,402</u>	<u>139,402</u>	
Net Change in Fund Balances				
Cash Balances				
Cash Balance - 4/29/19			538,184	
Fund Balances				
Designated for Playground Equipment			6,155	
Designated for Charitable Gambling Projects*			77,060	
Committed for Commons Master Plan			54,000	
Balance Available for Park Projects			<u>400,969</u>	
			<u>538,184</u>	

* Current designated project is Gazebo Gateway / Mitten Pond Improvements

349.213 LOCAL AUTHORITY.

Subdivision 1. **Local regulation.** (a) A statutory or home rule city or county has the authority to adopt more stringent regulation of lawful gambling within its jurisdiction, including the prohibition of lawful gambling.

(b) A statutory or home rule city or county may require a permit for the conduct of gambling exempt from licensing under section [349.166](#). The fee for a permit issued under section 349.166 may not exceed \$100.

(c) The authority granted by this subdivision does not include the authority to require a license or fee for a license or permit to conduct gambling by organizations, gambling managers, gambling employees, or sales by distributors or linked bingo game providers licensed by or registered with the board.

(d) The authority granted by this subdivision does not include the authority to require an organization to make specific expenditures of more than ten percent per year from its net profits derived from lawful gambling.

(e) For the purposes of this subdivision, net profits are gross profits less amounts expended for allowable expenses and paid in taxes assessed on lawful gambling.

(f) A statutory or home rule charter city or a county may not require an organization conducting lawful gambling within its jurisdiction to make an expenditure to the city or county as a condition to operate within that city or county, except:

(1) as authorized under section [349.16, subdivision 8](#), or [297E.02](#); or

(2) by an ordinance requirement that such organizations must contribute ten percent per year of their net profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction to a fund administered and regulated by the responsible local unit of government without cost to such fund. **The funds must be disbursed by the local unit of government for (i) charitable contributions as defined in section 349.12, subdivision 7a, or (ii) police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations.** A contribution made by an organization is not considered an expenditure to the city or county nor a tax under section [297E.02](#), and is valid and lawful. A city or county receiving and making expenditures authorized under this clause must by March 15 of each year file a report with the board, on a form the board prescribes, that lists all such revenues collected, interest received on fund balances, and expenditures for the previous calendar year. A home rule or statutory city or county making charitable contributions authorized under this clause must acknowledge financial contributions of organizations conducting lawful gambling to the community and to the recipients of the funds. This may occur in communications about the funds as well as in the distribution of funds.

(g) A statutory or home rule city or county may by ordinance require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes on lawful purposes conducted or located within the city's or county's trade area. Such an ordinance must be limited to lawful purpose expenditures of gross profits derived from lawful gambling conducted at premises within the city's or county's jurisdiction, must define the city's or county's trade area, and must specify the percentage of lawful purpose expenditures which must be expended within the trade area. A trade area defined by a city under this subdivision must include each city and township contiguous to the defining city.

(h) A more stringent regulation or prohibition of lawful gambling adopted by a political subdivision under this subdivision must apply equally to all forms of lawful gambling within the jurisdiction of the political subdivision, except a political subdivision may prohibit the use of paddlewheels.

Subd. 2. **Local approval.** The board may not issue an initial premises permit unless approval is received from:

(1) the city council of the statutory or home rule city in which the organization's premises is located; or

(2) the county board of the county where the premises is located.

The organization must submit a resolution from the city council or county board approving the premises permit. The resolution must have been adopted within 90 days of the date of application for the new permit.

Subd. 3. **Local gambling tax.** A statutory or home rule charter city that has one or more licensed organizations operating lawful gambling, and a county that has one or more licensed organizations outside incorporated areas operating lawful gambling, may impose a local gambling tax on each licensed organization within the city's or county's jurisdiction. The tax may be imposed only if the amount to be received by the city or county is necessary to cover the costs incurred by the city or county to regulate lawful gambling. The tax imposed by this subdivision may not exceed three percent per year of

349.12 DEFINITIONS.

Subdivision 1. **Scope.** As used in sections [349.11](#) to [349.23](#) the terms in this section have the meanings given them.

Subd. 2. **Active member.** "Active member" means a member who has paid all dues to the organization, who is 18 years of age or older, who has equal voting rights with all other members, who has equal opportunity to be an elected officer, who has equal right and responsibilities of attendance at the regularly scheduled meetings of the organization, whose name and membership origination date appear with the member's knowledge and consent on a list of members of the organization, and who has been a member of the organization for at least six months.

Subd. 3. **Affiliate.** "Affiliate" is any person or entity directly or indirectly controlling, controlled by, or under common control or ownership with a licensee of the board or any officer or director of a licensee of the board.

Subd. 3a. **Allowable expense.** "Allowable expense" means the percentage of the total cost incurred by the organization in the purchase of any good, service, or other item which corresponds to the proportion of the total actual use of the good, service, or other item that is directly related to conduct of lawful gambling.

Subd. 3b. **Bar operation.** "Bar operation" means a method of selling and redeeming disposable gambling equipment by an employee of the lessor within a leased premises which is licensed for the on-sale of alcoholic beverages.

Subd. 3c. **Bar bingo.** "Bar bingo" is a bingo occasion conducted at a permitted premises in an area where on-sale intoxicating liquor or on-sale 3.2 percent malt beverages are sold and where a licensed organization conducts another form of lawful gambling and consents to the conduct of bar bingo on the premises. Bar bingo does not include bingo games linked to other permitted premises.

Subd. 4. **Bingo.** "Bingo" means a game where each player has a bingo hard card, bingo paper sheet, or facsimile of a bingo paper sheet when used in conjunction with an electronic bingo device, for which a consideration has been paid, and played in accordance with this chapter and with rules of the board for the conduct of bingo. "Bingo" also includes a linked bingo game.

Subd. 5. **Bingo occasion.** "Bingo occasion" means a single gathering or session at which a series of one or more successive bingo games is played. There is no limit on the number of games conducted during a bingo occasion. A bingo occasion must not last longer than eight consecutive hours, except that linked bingo games played on electronic bingo devices may be played during regular business hours of the permitted premises, and all play during this period is considered a bingo occasion for reporting purposes. For permitted premises where the primary business is bingo, regular business hours shall be defined as the hours between 8:00 a.m. and 2:00 a.m.

Subd. 6. **Board.** "Board" is the Gambling Control Board.

Subd. 6a. **Booth operation.** "Booth operation" means a method of selling and redeeming disposable gambling equipment by an employee of a licensed organization in a premises the organization leases or owns.

Subd. 7. **Capital assets.** "Capital assets" means property, real or personal, except gambling equipment, with an expected useful life of at least two years and a minimum value of \$2,000.

Subd. 7a. **Charitable contribution.** "Charitable contribution" means one or more of the lawful purposes expenditures under subdivision 25, paragraph (a), clauses (1) to (7), (10) to (15), and (19).

Subd. 8. **Checker.** "Checker" means a person who records the number of bingo hard cards purchased and played during each game and records the prizes awarded to the recorded hard cards, but does not collect the payment for the hard cards.

Subd. 8a. **Continuation raffle.** "Continuation raffle" means the selection of winning entries from previously selected winning entries until a final selection of winning entries is determined and no additional consideration is required beyond the initial consideration to enter the raffle. A continuation raffle may be conducted over a period of time but cannot exceed 12 months.

Subd. 23. **Ideal net.** "Ideal net" means the pull-tab or tipboard deal's ideal gross, as defined under subdivision 22, less the total predetermined prize amounts available to be paid out. When the prize is not entirely a monetary one, the ideal net is 50 percent of the ideal gross.

Subd. 24. **Lawful gambling.** "Lawful gambling" is the operation, conduct or sale of bingo, raffles, paddlewheels, tipboards, and pull-tabs.

Subd. 25. **Lawful purpose.** (a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) or festival organization, as defined in subdivision 15c, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154, which standards must apply to both types of organizations in the same manner and to the same extent;

(2) a contribution to or expenditure for goods and services for an individual or family suffering from poverty, homelessness, or disability, which is used to relieve the effects of that suffering;

(3) a contribution to a program recognized by the Minnesota Department of Human Services for the education, prevention, or treatment of problem gambling;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to an individual, public or private nonprofit educational institution registered with or accredited by this state or any other state, or to a scholarship fund of a nonprofit organization whose primary mission is to award scholarships, for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize military service to the United States, the state of Minnesota, or a community, subject to rules of the board, provided that the rules must not include mileage reimbursements in the computation of the per diem reimbursement limit and must impose no aggregate annual limit on the amount of reasonable and necessary expenditures made to support:

(i) members of a military marching or color guard unit for activities conducted within the state;

(ii) members of an organization solely for services performed by the members at funeral services;

(iii) members of military marching, color guard, or honor guard units may be reimbursed for participating in color guard, honor guard, or marching unit events within the state or states contiguous to Minnesota at a per participant rate of up to \$50 per diem; or

(iv) active military personnel and their immediate family members in need of support services;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender and the organization complies with section 349.154, subdivision 3a;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, the taxes imposed by section 297E.02, subdivisions 1, 5, and 6, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

(9) payment of real estate taxes and assessments on permitted gambling premises owned by the licensed organization paying the taxes, or wholly leased by a licensed veterans organization under a national charter recognized under section 501(c)(19) of the Internal Revenue Code;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;

(11) a contribution to or expenditure by a nonprofit organization which is a church or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances;

(12) an expenditure for citizen monitoring of surface water quality by individuals or nongovernmental organizations that is consistent with section 115.06, subdivision 4, and Minnesota Pollution Control Agency guidance on monitoring procedures, quality assurance protocols, and data management, provided that the resulting data is submitted to the Minnesota Pollution Control Agency for review and inclusion in the state water quality database;

(13) a contribution to or expenditure on projects or activities approved by the commissioner of natural resources for:

(i) wildlife management projects that benefit the public at large;

(ii) grant-in-aid trail maintenance and grooming established under sections 84.83 and 84.927, and other trails open to

public use, including purchase or lease of equipment for this purpose; and

(iii) supplies and materials for safety training and educational programs coordinated by the Department of Natural Resources, including the Enforcement Division;

(14) conducting nutritional programs, food shelves, and congregate dining programs primarily for persons who are age 62 or older or disabled;

(15) a contribution to a community arts organization, or an expenditure to sponsor arts programs in the community, including but not limited to visual, literary, performing, or musical arts;

(16) an expenditure by a licensed fraternal organization or a licensed veterans organization for payment of water, fuel for heating, electricity, and sewer costs for:

(i) up to 100 percent for a building wholly owned or wholly leased by and used as the primary headquarters of the licensed veteran or fraternal organization; or

(ii) a proportional amount subject to approval by the director and based on the portion of a building used as the primary headquarters of the licensed veteran or fraternal organization;

(17) expenditure by a licensed veterans organization of up to \$5,000 in a calendar year in net costs to the organization for meals and other membership events, limited to members and spouses, held in recognition of military service. No more than \$5,000 can be expended in total per calendar year under this clause by all licensed veterans organizations sharing the same veterans post home;

(18) payment of fees authorized under this chapter imposed by the state of Minnesota to conduct lawful gambling in Minnesota;

(19) a contribution or expenditure to honor an individual's humanitarian service as demonstrated through philanthropy or volunteerism to the United States, this state, or local community;

(20) a contribution by a licensed organization to another licensed organization with prior board approval, with the contribution designated to be used for one or more of the following lawful purposes under this section: clauses (1) to (7), (11) to (15), (19), and (25);

(21) an expenditure that is a contribution to a parent organization, if the parent organization: (i) has not provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value, and (ii) has received prior board approval for the contribution that will be used for a program that meets one or more of the lawful purposes under subdivision 7a;

(22) an expenditure for the repair, maintenance, or improvement of real property and capital assets owned by an organization, or for the replacement of a capital asset that can no longer be repaired, with a fiscal year limit of five percent of gross profits from the previous fiscal year, with no carryforward of unused allowances. The fiscal year is July 1 through June 30. Total expenditures for the fiscal year may not exceed the limit unless the board has specifically approved the expenditures that exceed the limit due to extenuating circumstances beyond the organization's control. An expansion of a building or bar-related expenditures are not allowed under this provision.

(i) The expenditure must be related to the portion of the real property or capital asset that must be made available for use free of any charge to other nonprofit organizations, community groups, or service groups, and is used for the organization's primary mission or headquarters.

(ii) An expenditure may be made to bring an existing building that the organization owns into compliance with the Americans with Disabilities Act.

(iii) An organization may apply the amount that is allowed under item (ii) to the erection or acquisition of a replacement building that is in compliance with the Americans with Disabilities Act if the board has specifically approved the amount. The cost of the erection or acquisition of a replacement building may not be made from gambling proceeds, except for the portion allowed under this item;

(23) an expenditure for the acquisition or improvement of a capital asset with a cost greater than \$2,000, excluding real property, that will be used exclusively for lawful purposes under this section if the board has specifically approved the amount;

(24) an expenditure for the acquisition, erection, improvement, or expansion of real property, if the board has first specifically authorized the expenditure after finding that the real property will be used exclusively for lawful purpose under this section;

2019 Park Improvement Fund Budget - v2. 4/29/19

Notes Added by Kelly 4/29/19:

2018 Ending Fund Balance	\$ 398,782	ok	
Grant Revenue	\$ 16,000	Henn Cty Shoreline Restoration Grant	
Interest Earnings	\$ 2,000	ok	
Charitable Gambling Donations	\$ 7,500	ok	
Transfer from Other Fund	\$ 100,000	(From Dock Fund)	
2019 Projected Fund Balance before Expenses	\$ 524,282		
2019 Budgeted Expenses			
Professional Services	\$ (25,000)	(Engineering for Gazebo Gateway / Shoreline Restoration)	Budgeted to use Charitable Gambling Procee
Improvements other than Buildings	\$ (20,000)	Henn Cty Shoreline Restoration Grant Expenditures	
Improvements - Charitable Gambling	\$ (50,000)	(Gazebo Gateway)	Budgeted to use Charitable Gambling Procee
2019 Total Budgeted Expenses	\$ (95,000)		
2019 Fund Balance after Expenses (Approved Budget Fall 2018)	\$ 429,282	ok	
2019 Budget Adjustments (Increases)			
Parking Meter Transfers for Ice Castle Event (Resolution Approved 4/23/19)	\$ 54,000		
2019 Total Budget Adjustments (Increases)	\$ 54,000		
2019 Fund Balance after Increases	\$ 483,282	ok	
2019 Budget Adjustments (Decreases)			
Reserve for future projects	\$ (83,282)	Working capital, contingencies, future projects	
2019 Total Budget Adjustments (Decreases)	\$ (83,282)		
2019 Total Fund Balance After Adjustments (Available for Commitment)	\$ 400,000	ok	
2019 Park Improvement Fund Commitments			
Commitment to Commons Projects (Resolution Approved 4/23/19)	\$ 54,000		
Commitment to Commons Projects (Resolution Proposed 5/20/19)	\$ 346,000		
2019 Total Commitments	\$ 400,000		
2019 Total Fund Balance After Commitments (Available for Commitments)	\$ -		