

**Harbor Springs City Council Minutes
May 21, 2007**

Mayor Jardine called the thirteenth meeting of the Harbor Springs City Council to order at 7:00 pm, in the City Council Chambers at 160 Zoll Street, Harbor Springs, Michigan.

1. Roll Call and Verification of Quorum

Present: Jean Jardine, Jim Grogan, Mick Heinz and Laura Kors

Absent: Dennis Wiggins

Also Present: City Attorney James Ramer, City Manager Fred Geuder, City Police Chief Dan Branson and City Clerk Ron McRae

2. City Clerk / Comptroller / Treasurer

A. Approval of Minutes

Councilperson Grogan noted the following correction:

Page 8, Item 15 A reads, "Councilperson Grogan stated that..." It should read, "Councilperson Heinz stated that..."

#7308 – Motion by Grogan, seconded by Heinz, to approve the May 7, 2007 regular City Council meeting minutes as amended.

Ayes – 4

Nays – 0

B. Approval of Bills

I have examined the bills appearing on the vouchers below and recommend they be allowed and payment made from the following funds:

#7377 – A/P	Sales Tax April 07	\$ 3,720.96 General Fund 117,126.25 Local Sts Fund 10,728.30 Electric Fund 1,598.99 Waterfront Fd
#7378 – Payroll	P.P. E. 5/13/07	\$ 27,462.00 General Fund 517.74 Maj Sts Fund 303.35 Local Sts Fund 422.40 Historical Fund 11,083.75 Electric Fund 5,142.63 W & S Fund 6,927.85 Waterfront Fd 515.59 Equipment Fd
#7379 – A/P	Council 5/21/07	\$ 13,894.16 General Fund 1,808.39 Local Sts Fund 192.13 Historical Fund 105,748.67 Electric Fund 3,873.12 W & S Fund 4,104.25 W. T. Fund 6,125.26 Waterfront Fd 2,139.63 Equipment Fd

#7309 – Motion by Grogan, seconded by Heinz, to approve the bills in the amount of \$323,435.42.

Ayes – 4

Nays – 0

THEREFORE, BE IT RESOLVED that claims on voucher numbers #7377, #7378, and #7379, checked by the Finance Committee, in the amount of \$323,435.42 be allowed for payment, and the City Manager and the Mayor are hereby authorized to execute warrants to be drawn on the following funds:

General Fund	\$ 45,077.12
Major Streets Fund	517.74
Local Streets Fund	119,237.99
Police Reserve	0.00
Historical Fund	614.53
B. A. Construction Fund	0.00
Electric Fund	127,560.72
Water & Sewer Fund	9,015.75
West Traverse Fund	4,104.25
Waterfront Fund	14,652.10
Equipment Fund	2,655.22
Trust Fund	.00

Total	\$ 323,435.42
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3. Citizen Comments

None

4. Resolution to Approve the Development Agreement for the Harbor Springs Hotel

City Manager Geuder stated that City Council needed to determine that the following issues have been resolved to the City Council's satisfaction. The issues are:

- (a) Restrictions on parking and traffic direction on Gardner Street;
- (b) Restrictions on outdoor activities on the green space at the southeast corner of Gardner and Bay Streets;
- (c) Restrictions on the outdoor fireplace; and
- (d) Restrictions on the use of the rooftop decks.

City Manager Geuder reminded Council that the Council previously decided that no action was necessary on the restrictions on parking and traffic direction on Gardner Street at this time. This issue is one over which Council has total jurisdiction and can be implemented at Council's discretion. The question on restrictions on outdoor activities on the green space and on the rooftop decks dealt primarily with music noise levels. The Planning Commission reserved oversight responsibility on these two areas and the restrictions are subject to annual review. The question on the outdoor fireplace dealt mostly with how the fireplace should be fueled. City Attorney Ramer stated that under the City Code, outdoor wood-burning fireplaces were not permitted for commercial enterprises.

Council discussed these issues. After discussion the following motion was offered:

#7310 – Motion by Heinz, seconded by Kors, to approve the resolution of the issues as presented above, which are:

- (a) Restrictions on the parking and traffic flow on Gardner Street will be addressed when necessary;
- (b) Restrictions on music noise levels for use of the green space and the rooftop decks will be monitored and reviewed annually by the Planning Commission; and

- (c) The outdoor fireplace will be fueled by natural gas, and its location as proposed is approved.

Ayes - Grogan, Heinz, Kors and Jardine
Nays - None
Absent - Wiggins

City Manager Geuder stated that since Council has formally resolved the issues stated above, Council could consider the "Resolution to Approve a Project as a Planned Development (CBD)", hereinafter referred to as the "Resolution". Manager Geuder stated that the Resolution gives final approval to the Hotel Project as a Planned Development under the Code, and also approves the form and content of the proposed "Planned Development and Conditional Rezoning Agreement".

City Attorney Ramer stated that the draft of the Agreement Council members received in their packets had been modified after discussions with the developer. The changes were contained in Section 3.2 of the Agreement, and the changes extended the time for the developer to begin the project to one year after approval by the Emmet County Circuit Court in the case of "Woods v. City of Harbor Springs, File No. 07-9786-CE" or October 31, 2008, whichever last occurs. In the earlier draft, the developer was required to begin the project on or before June 8, 2008. Further, this section was modified to state that if the developer gave notice that he had abandoned the project prior to beginning construction, or if the developer failed to timely begin construction as set out in the Agreement, the City would record a document stating that the Agreement was terminated, that the Site Plan was void, and that the rezoning of the former TR parcel to CBD was rescinded and that the prior TR zoning of the parcel was restored.

Council discussed this issue with Manager Geuder and City Attorney Ramer. After the discussion the following motion was offered:

#7311 – Motion by Grogan, seconded by Kors, to adopt the "Resolution to Approve a Project as a Planned Development (CBD)", which authorizes the Mayor and Clerk to execute the revised "Planned Development and Conditional Rezoning Agreement" as presented to Council as outlined above.

Ayes - Heinz, Kors, Jardine and Grogan
Nays - None
Absent - Wiggins

5. Pursley Lot Split

City Manager Geuder stated that Peter Pursley proposed to split his lot at 372 Glenn Drive. The Planning Commission heard his request to split a portion of his lot to sell it to his neighbor to the east. It was the recommendation of the Planning Commission to deny his request.

The Planning Commission recommended denial of the lot split because there was no practical difficulty or hardship presented, which is the standard necessary to approve the creation of a non-conforming lot. A lot in this zoning district is required to have 100 feet of road frontage. The lot currently has 126 feet of road frontage. Twenty-six feet could be split via an administrative approval.

Councilperson Kors stated that the Planning Commission did not want to set a precedent by approving a lot split creating a non-conforming lot, without demonstration of a practical difficulty or hardship. It was also the recommendation of the City Planner to recommend denial of the proposed lot split.

Council discussed this issue. After the discussion the following motion was offered:

#7312 – Motion by Kors, seconded by Grogan, to accept the Planning Commission recommendation, and to deny the proposed Pursley lot split at 372 Glenn Drive.

Ayes - Kors, Jardine, Grogan and Heinz
Nays - None
Absent - Wiggins

6. Fourth of July Requests

City Manager Geuder stated that Kathy Lott, Executive Director of the Harbor Springs Chamber of Commerce, was here to discuss the upcoming Chamber events scheduled for the Fourth of July, including the parade and fireworks.

A. Parade

Lott stated that the Chamber has approached the individuals that broke the rule prohibiting the distribution of candy. The Chamber also will ask participant to limit excessive noise (sirens) and to eliminate water be hosed at the crowd.

B. Fireworks

Lott stated that the Coast Guard is no longer part of the approval process for the fireworks. Lott reviewed the approval process that has been in place and all of the entities that are listed as being "Additional Insured" for the fireworks. Lott stated that the Chamber will work with the Chief of Police and Fire Chief to maintain the highest level of safety and should inclement weather become a factor, the Police Chief and Fire Chief will have the final authority as to whether to proceed with the show.

Council discussed the steps being taken for both the parade and the fireworks display. After the discussion the following motion was offered:

#7313 – Motion by Heinz, seconded by Grogan, to approve the Fourth of July parade and fireworks display as presented by Kathy Lott and City Manager Geuder. Further, that in the event of inclement weather, the Chief of Police and or the Fire Chief shall have the final authority over whether the fireworks proceed as scheduled.

Ayes – 4
Nays – 0

7. Porsche Event

Mayor Jardine stated that she had heard that the Porsche Event was being rescheduled from June 27th to another date at the request of the Chairman of the Porsche Group. Lott stated that she did not know about the change but would look into the matter and get back to City Manager Geuder. City Manager Geuder stated that he would let Council know what specific date is being request, and bring it back to Council at the June 4th City Council meeting.

8. Zoll Street Parking

City Manager Geuder discussed the current parking rules and use of the parking area off Pennsylvania Street on the south end of the City property at Zoll Street and Pennsylvania Street. Manager Geuder asked Chief Branson to explain his concerns and proposal.

Chief Branson stated that the overflow parking lot has usually not had more than two or three vehicles at any one time during the summer season. He believes that this is due to the \$10 per day fee. We have visitors who come to Harbor Springs for a short period, such as a few days. They launch their boat, but not all of the family may be boating. They have no place to store the trailer if part of the family wants to go off in their vehicle. Rather than store their trailer only at Ford Park or in a street parking place, Branson suggested that they be able to store their trailer in the overflow parking area for no cost

as long as they have a valid launch permit. Branson also suggested the visitors might be able to store their trailers in the overflow parking area when they aren't boating, but don't wish to pull the trailer along wherever they go. These people could pay a small fee of perhaps \$5 a day and leave their trailer only in the overflow parking area. Chief Branson stated that this practice might better utilize the over flow parking area and still provide a workable inexpensive way for people to store their boats or trailers on a short term basis.

Council discussed this issue. They want to be a "good neighbor", but did not want someone storing their boat in the overflow parking area for the entire summer season. After their concerns were addressed Council approved, by consensus, Chief Branson's proposal, noting that this would be a work in process.

9. Vendor License Request

City Manager Geuder stated that he had received a letter from Will Grogan regarding the purchase of the marina area Vendor's License.

Mayor Jardine excused Councilperson Grogan to avoid any conflict of interest issues because Will Grogan is the grandson of Councilperson Grogan.

[Councilperson Grogan left the City Council Chambers at 8:05 p.m.]

Manager Geuder stated that Will Grogan has been given a vendor's license in the past. He has done a good job. However, his letter states that he cannot be up here this summer to provide the service. He would be willing to pay the license fee of \$525 for the 2007 license in his name, and thus be first in line for the 2008 license. The City Manager noted that previous to Grogan a vendor had held the license for two years without opening up.

Council discussed this issue. Councilperson Kors first suggested authorizing Will Grogan to pay for 2008 now and let another have the license this year if requested. Councilperson Heinz stated that what is proposed by Will Grogan makes good business sense and doesn't create a bad precedent. Councilperson Heinz believes that Council should approve Will Grogan's request. After the discussion the following motion was offered:

#7314 – Motion by Kors, seconded by Heinz, to grant Will Grogan's request to purchase the vendor's license for the marina area for the 2007 season at a cost of \$525.

Ayes – 3
Nays – 0

[Councilperson Grogan returned to the City Council Chambers at 8:10 p.m. and resumed his seat.]

10. Cable T.V. Franchise Agreement

City Manager Geuder stated that he had received a proposed Franchise Agreement from Charter Communications. Under the new state law (PA 480 of 2006) Council must act on this franchise agreement within thirty days or it is deemed approved automatically.

Both City Manager Geuder and City Attorney Ramer discussed the proposed Agreement. Manager Geuder stated that the City has never asked for a Franchise Fee because it would be passed along directly to the residents of the community who use the service

The City does receive a "Pole Contact Fee" of \$4.95 per pole contact. He would like to see the Pole Contact Fee increased to \$5.30 per pole contact. City Attorney Ramer state that Charter appears to be receptive to the increased Pole Contact Fee, but that

this fee would have to be part of a separate agreement. Council suggested that the City Manager find out what other communities in the area receive for a pole contact fee before any action is taken on that issue.

City Manager Geuder and City Attorney Ramer did recommend City Council approval of the Franchise Agreement with a zero per cent franchise fee.

Council discussed this issue. After the discussion the following motion was offered:

#7315 – Motion by Grogan, seconded by Heinz, to approve the “Uniform Video Service Local Franchise Agreement” with Charter Communications with a zero per cent franchise fee.

Ayes – 4
Nays – 0
Absent - Wiggins

11. Michigan Municipal League Regional Meeting

Mayor Jardine stated that the Michigan Municipal League regional meeting is scheduled for June 1st in Alpena. She asked if any Council members wished to attend. She further stated Clerk McRae would drive if any Council members were interested.

No Council members expressed an interest in attending.

12. Bear Creek Township Sewer Proposal Meeting

City Manager Geuder stated that he and Councilperson Grogan met with the other members of the Harbor Springs Area Sewage Disposal Authority (HSASDA) and Bear Creek Township concerning the potential service to Bear Creek Township for sewage treatment needs.

Manager Geuder stated that various options were being discussed. One option was to sell Bear Creek Township sewage treatment capacity, while another option would be to rent capacity. There are also economic benefits for the members of the HSASDA in working with Bear Creek Township.

Councilperson Grogan stated that he believes the City should continue to meet with the group to see what the final proposal will be.

Councilperson Kors stated that she thought the City's earlier decision was to not participate. Manager Geuder stated that he thought the Council's position was to listen to the proposal, but not commit to anything at this point. Councilperson Heinz state that he might be more comfortable if the City's share of capacity were rented. After a brief discussion, Manager Geuder stated he would review the previous minutes and report back to Council.

13. Boards and Commissions

A. Planning Commission (PC)

Council reviewed the May 17, 2007 PC meeting minutes. Mayor Jardine announced that the next regular PC Meeting is scheduled for 6:00 p.m., Thursday, June 21, 2007 in the City Council Chambers.

B. Zoning Board of Appeals (ZBA)

Council reviewed the May 9, 2007 ZBA meeting minutes. Mayor Jardine announced that the next ZBA meeting was scheduled for 5:30 p.m., Wednesday, June 13, 2007 in the City Council Chambers.

C. Harbor Commission (HC)

Mayor Jardine reviewed the HC summer meeting schedule. The HC will be meeting on the following dates and times:

Wednesday	June 20th	4:00 p.m.
Wednesday	July 18th	4:00 p.m.
Wednesday	August 15 th	4:00 p.m.

D. Next City Council Meeting

Mayor Jardine noted that the next regular City Council meeting is scheduled for 7:00 p.m., Monday, June 4, 2007 in the Harbor Springs City Council Chambers.

14. Old and New Business

A. H.A.R.B.O.R., Inc.

Councilperson Heinz stated that he thought the discussions on the Recreation and Open Space Plan were stalled. No one seems to want to make a commitment. The only benefit at this time appears to be the discussions that the City and Townships are having.

B. Harbor Springs Area Historical Society

Councilperson Grogan stated that the Harbor Springs Area Historical Society will have their bid opening for the Old City Hall renovations on May 30, 2007.

C. Working without the Proper Permits

Council members discussed concerns about contractors working without the proper zoning permits, as was discussed at the Planning Commission meeting. They voiced concerns that our penalties were not high enough to encourage them to follow the rules. City Attorney Ramer stated that he would prepare a presentation for Council to demonstrate the differences between a criminal infraction and a civil infraction and how the civil infraction process might be a better option.

D. Police Boat

Councilperson Kors asked if the police boat was in the water. Chief Branson stated that it was and was being docked at Walstrom's Marina for the time being, but will be moved to the City dock shortly.

E. Status of the Law Suit between the City of Harbor Springs and the Woods

Councilperson Kors questioned where the City stood in the law suit over the Harbor Springs Hotel approvals. City Attorney Ramer stated that all of the parties are scheduled to meet with the Circuit Court on May 30th for a scheduling conference.

15. Adjournment

With no further business, Mayor Jardine adjourned the meeting at 8:22 p.m.

Ronald B. McRae, City Clerk

Approved: June 4, 2007

Jean Jardine, Mayor

Attachments