

**Harbor Springs City Council Minutes  
June 4, 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. Recognition for Service to the City

Mayor Jardine presented a framed "Resolution of Appreciation for Twenty-two Years of Service" to Eric Barkley for the time he spent on the Police Reserve Unit.

3. City Clerk / Comptroller / Treasurer

A. Approval of Minutes

#7316 – Motion by Kors, seconded by Grogan, to approve the May 21, 2007 regular City Council meeting minutes as read.

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:

#7380 – Payroll	P.P. E. 5/27/07	\$ 33,486.88 General Fund 567.87 Maj. Sts Fund 125.13 Local Sts Fund 422.40 Historical Fund 11,317.71 Electric Fund 3,865.37 W & S Fund 7,210.69 Waterfront Fd 481.24 Equipment Fd
#7381 – A/P	Council 6/4/07	\$ 17,284.67 General Fund 11,908.45 Maj Sts Fund 16,753.20 Local Sts Fund 1,399.99 Historical Fund 1,500.00 BA Const Fund 150,542.70 Electric Fund 3,137.00 W & S Fund 6,995.57 Waterfront Fd 1,754.38 Equipment Fd

#7317 – Motion by Grogan, seconded by Heinz, to approve the bills in the amount of \$268,753.25.

Ayes – 4

Nays – 0

THEREFORE, BE IT RESOLVED that claims on voucher numbers #7380, and #7381, checked by the Finance Committee, in the amount of \$268,753.25 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	\$ 50,771.55
Major Streets Fund	12,476.32
Local Streets Fund	16,878.33
Police Reserve	0.00
Historical Fund	1,822.39
B. A. Construction Fund	1,500.00
Electric Fund	161,860.41
Water & Sewer Fund	7,002.37
West Traverse Fund	.00
Waterfront Fund	14,206.26
Equipment Fund	2,235.62
Trust Fund	.00
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Total	\$ 268,753.25
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4. Citizen Comments

None

5. Porsche Group Car Display

City Manager Geuder stated that he had confirmed and clarified the request from the Chamber of Commerce concerning the display of the Porsches. The Chamber would like to have the Porsches late in the afternoon or early evening on Wednesday, June 27<sup>th</sup>. Police Chief Branson will work with the group to coordinate the arrival and departure of the Porsches.

The Fashion Show is still scheduled for Thursday, June 28<sup>th</sup> at the Pier Restaurant and is a separate event. The Fashion show does not require City Council approval.

Council approved the event by consensus.

6. Review of Bay Bluffs Concept for Day Care Addition

City Manager Geuder stated that Diana Bailey, Executive Director of Bay Bluffs Medical Care Facility, was present to make a presentation on the concept of the day care addition.

Bailey passed out a three page drawing of the conceptual child day care addition. Bailey reviewed with Council the proposed location of the child day care addition. She also informed Council that the City would need to change the conditions on the deed to permit a "child day care" use on the property.

Council discussed the conceptual drawings and their concerns with Bailey. It was the consensus of Council that the proposed concept was good, but Council asked that Bailey provide a more detailed plan when she returned for approval of the project. The Council had no objection to amending the deed restrictions.

#### 7. Police Department Accreditation

City Manager Geuder stated that Police Chief Branson would like to apply to the Commission on Accreditation of Law Enforcement Agencies (CALEA). The cost for this accreditation process is \$1,570.

Chief Branson stated that the smaller Police Departments, like Harbor Springs, formerly could not go through this process because there were approximately four hundred standards that needed to be addressed. A new program has been developed which would require the review of approximately one hundred items. Chief Branson stated that he believed that meeting one hundred standards was something that our Police Department personnel could complete in a twelve to eighteen month period. The process is a self-evaluation audit of the Police Department.

Council members discussed Chief Branson's request for the accreditation. The cost for the application fee of \$1,570 would come from contributed funds that have been given to the Police Department.

It was Council consensus to authorize the City Manager and Police Chief to sign and submit the application for accreditation.

#### 8. Parking Issues in the 200 Block of East Main Street

City Manager Geuder stated that the loading zone in the 200 Block of East Main Street is creating problems of ingress and egress for the residents living in the new development on the former Wendell Smith Property, which now consists of two commercial and four residential units on the Wendell Smith property. Chief Branson explained that the loading zone on the south side of East Main Street in the 200 Block started just east of Norbert Dierson's building and continues east sixty-eight feet. The loading zone worked fine when there was only a single family residence.

Now that the property has been developed, the driveway provides ingress and egress to four residential units. The two commercial units do not have parking in the rear.

Chief Branson presented two alternatives. The first alternative would be to move the loading zone to the front of the hotel. Three parking spaces would be lost in front of the hotel, but a full sized parking space would be added and a parking space restricted to compact cars.

The second alternative would be to again move the loading zone in front of the hotel, losing three parking spaces. The three lost parking spaces would be replaced with two compact car parking spaces and one motorcycle parking space.

Chief Branson stated that he discussed moving the loading zone in front of Norbert Dierson's building or the bank building. Both stated that they would prefer not to have the loading zone in either location. Chief Branson asked Rob Mossburg about putting the loading zone in front of the hotel. Mossburg stated that he would support the loading zone in front of the hotel, which may be able to function as a guest check-in site. Chief Branson stated that it would be his recommendation to keep the loading zone in force twenty-four hours a day.

Council discussed this issue. They wanted to know if the loading zone was necessary. Chief Branson stated if there was no loading zone the trucks would park in the traffic lane and unload. Council asked if the loading zone could be used as regular parking after 7:00 p.m. and on Sundays and holidays. Chief Branson stated that would be a Council decision. His recommendation was not to do that. Another issue was if Council had to negotiate the unloading zone with the property or business owners. City Manager Geuder and City Attorney Ramer both stated that Council had sole jurisdiction over parking and loading zones. After addressing Council member's questions and concerns, the following motion was offered:

#7318 – Motion by Kors, seconded by Heinz, to authorize the creation of a loading zone in front of the hotel, as proposed in Option 2 of Chief Branson’s recommendations. Further, that the loading zone be open to parking after 7:00 p.m. and on Sundays and holidays, on a one year trial basis.

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

#### 9. Civil Infractions as a Penalty for a Violation of the City Code

City Manager Geuder stated that City Attorney Ramer had prepared a presentation for Council on Civil Infractions and the differences between that and the criminal nature as is in the current Zoning Code, pursuant to the direction of City Council at their May 21, 2007 regular Council meeting.

City Attorney Ramer discussed the “Criminal Law Regime” which is the basis of the current Zoning Code penalties. He then reviewed the “Civil Infraction Regime”.

Under the Criminal Law Regime the City can prosecute someone breaking the Zoning Code statutes by fining them up to \$500 and/or putting the law breaker in jail for up to ninety (90) days. The defendant has the right to trial by jury and the offense is subject to the standard of “proof beyond a reasonable doubt”.

Under the Civil Law Regime the mechanism for Code enforcement has been authorized by the Michigan State Legislature for municipalities. Under the Civil Law Regime the municipality may impose specific fines for violations of the Code that exceed the \$500 limitation under a “Criminal Law Regime”. Further, the standard of proof for a violation is “proof by a preponderance of the evidence”. A person accused of a civil infraction does not have a right to a jury trial and does not have a right to court appointed legal counsel. All trials are conducted by the District Court Judge. The municipality has a right to recoup its cost of prosecution from the violator, if the violator is found responsible for the offense by the District Court Judge. The violator does not end up with a criminal record if found responsible for a civil infraction. Lastly, if the offense relates to a violation pertaining to the property owned by the violating party, the municipality can have a lien on the property of the violating party until the fines and costs are paid.

City Manager Geuder then reviewed a proposed revised schedule of Planning and Zoning Fees with two columns of charges. The first column “Fee\*” is for the regular fees if the applicant submits his documents and seeks approval prior to beginning a proposed project. The second column “Late Fee\*\*” is to be used in the event someone starts or completes a project without the proper approvals.

Council members discussed this issue with Manager Geuder and Attorney Ramer. It was the consensus of the Council members present that the changes proposed to the Planning and Zoning Fee Schedule and the ordinance amendments to change the City Code from a “Criminal Law Regime” to a “Civil Law Regime” be referred to the Planning Commission for their consideration and recommendation.

#### 10. 2007 T-Hanger Project

City Manager Geuder stated that the Harbor-Petoskey Airport Authority was proposing to build a ten-unit T-hanger and eventually remove a four-unit T-hanger in the area of a proposed new terminal. Manager Geuder reviewed the site plan of the proposed changes with Council.

The ten-unit T-hanger would be rented out. The project is being partially funded by the Michigan Department of Aeronautics grant funding of \$196,840. The local match will be approximately \$171,595. The Airport Authority plans to borrow the local portion over a 15-year period with repayment being made from rental receipts.

Council asked if the Authority members would have to pay on the proposed loan. Manager Geuder stated that the loan was to be repaid from rental receipts. The proposed rental rate for aircraft storage in the new facility was asked. Manager Geuder stated that the proposed rate was \$250 per month. The old rate was \$125 per month. Councilperson Kors stated that doubling the rate was not a good idea in her opinion. Manager Geuder stated he would take that message back to the Airport Authority Board, but that the Authority Board had the right to set the rates.

#7319 – Motion by Grogan, seconded by Heinz, to approve the construction of the proposed ten-unit T-hanger as proposed on the site plan and per the May 30, 2007 letter from the Harbor Petoskey Area Airport Authority.

Ayes – 4  
Nays – 0

#### 11. Sewer Authority - Bear Creek Township Update

City Manager Geuder stated that he and Councilperson Grogan attended the last meeting concerning the Bear Creek Township proposal to send their sewage to the Harbor Springs Area Sewage Disposal Authority's wastewater treatment plant. Manager Geuder informed Council that Bear Creek was notified that the City did not wish to sell any of its treatment plant capacity. However, renting capacity may be an option.

Both the Village of Alanson and the City voiced concerns about setting a triggering point that Bear Creek would have to begin construction to provide for more capacity at the wastewater treatment plant once a specific level of existing capacity is used.

Manager Geuder stated that it was the general consensus of all the Authority members present that the simplest way to add Bear Creek Township as a member of the Authority was to give them a seat on the Board, increasing the number of Board members to eight.

Councilperson Grogan stated that he thought that the negotiations were going well. He stated that he had walked the wastewater treatment plant site. He noted that the plant is currently being under utilized. By adding Bear Creek Township's proposed sewer flows, the wastewater treatment plant will become more used and the costs would be allocated to more users of the system.

Council members discussed this issue. Mayor Jardine, with Council consensus, tabled this issue until a spread sheet could be developed to illustrate the flows being treated, the wastewater plant capacity and the proposed flows from Bear Creek Township, as the flows relate to the City's capacity. Further, City Manager Geuder and Councilperson Grogan will continue to attend the meetings.

#### 12. Resolution to Assess Delinquent Billings on General Property Taxes

City Manager Geuder stated that City Clerk McRae prepared this resolution to protect the City from further liabilities as a result of the failure of the property owner to mow the lawn and pay the delinquent utility billings. Manager Geuder stated that we don't do this every year, but there are times when it is necessary.

City Clerk McRae stated that the Resolution is to approve assessing Mark Roszczewski, 693 East Lake Street, Parcel ID No. 24-51-15-12-400-072, for lawn cutting at a cost of \$132.88 and for delinquent utilities in the amount of \$203.01, totaling \$335.89. Clerk McRae stated that the property is in foreclosure and the City needs to get a lien against the property by placing the amount due on the property taxes.

#7320 – Motion by Heinz, seconded by Grogan, to approve the “Resolution to Special Assess for Delinquent Billings”, which special assesses the property at 693 East Lake Street for lawn cutting costs of \$132.88 and delinquent utility billings of \$203.01.

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

### 13. Boards and Commissions

#### A. Planning Commission (PC)

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)

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 announced that the next HC meeting was scheduled for 4:00 p.m., Wednesday, June 20, 2007 in the City Council Chambers.

#### D. Next City Council Meeting

Mayor Jardine noted that the next regular City Council meeting is scheduled for 7:00 p.m., Monday, June 18, 2007 in the Harbor Springs City Council Chambers.

### 14. Old and New Business

#### A. Reppard Property

Mayor Jardine asked what was happening on the Reppard property. It appears as though a drive was being prepared and landscaping was taking place. Manager Geuder stated that he would check into the activity on the site.

#### B. House on Parcel West of the Former Presbyterian Church on East Third Street

Mayor Jardine asked if the permits were all approved for the work on the lot just west of the former Presbyterian Church on East Third Street. Manager Geuder stated that the permits were paid and issued for the building that met standards for a single family house.

#### C. Holy Childhood Church Response

Mayor Jardine asked if there was a response to City Manager Geuder’s letter from Holy Childhood Church. Manager Geuder stated that he received no response.

15. Adjournment

With no further business, Mayor Jardine adjourned the meeting at 8:17 p.m.

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Ronald B. McRae, City Clerk

Approved: June 18, 2007

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Jean Jardine, Mayor

Attachments