

**Harbor Springs City Council Meeting Minutes
October 17, 2005**

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

1. Roll Call and Verification of Quorum

Present: Jean Jardine, Jim Grogan, Michael Heinz, Laura Kors and Pringle Pfeifer

Absent: None

Also Present: City Attorney James Ramer, City Manager Fred Geuder, Police Chief Dan Branson, DPW Superintendent Rick Ward, and Ron McRae, City Clerk/Comptroller/Treasurer

2. City Clerk/Comptroller/Treasurer

A. Approval of Minutes

The following changes were noted to the September 19, 2005 regular City Council meeting minutes:

1. Item 2. A. 7., page 2, the seventh paragraph, last sentence reads, "Further, if the Ms. LaHood was..." It should read, "Further, if Ms. LaHood was..."
2. Item 4, page 4, third paragraph, the third and fourth sentences read, "Personally, he believes that Walstrom Marine, Inc. has presented a good plan that he personally approves. However, because..." They should read, "Personally, he believes that Walstrom Marine, Inc. has presented a good plan. Because..."
3. Item 4, page 4, Motion No. 7088 reads, "...proposed Walstrom plan..." It should read, "...proposed Walstrom Marine, Inc. plan..."

#7089 – Motion by Pfeifer, second by Grogan, to approve the October 3, 2005 regular City Council meeting minutes, as amended.

Ayes – 5

Nays – 0

B. Approval of Bills

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

#7232 – Payroll	PPE 10/02/05	\$ 40,485.92	General Fund
		735.71	Major Streets Fd
		222.94	Local Streets Fd
		10,762.45	Electric Fund
		4,935.08	W&S Fund
		4,100.15	Waterfront Fund
		947.68	Equipment Fund
		410.00	Historical Fund

#7233 – Payroll	PPE 10/02/05 Cks mis	\$ 1,492.00	General Fund
#7234 – Trust	Tax Payouts/overpymts	\$112,215.29	Trust Fund
#7235 – Sales Tax	Sept '05 Sales Tax	\$ 3,824.07 13,858.64	General Fund Electric Fund
#7236 – A/P	10/17/05 Council Bills	\$ 42,398.19 249.15 2,782.45 51,756.92 29,138.77 3,512.11 5,403.46 1.0 5,026.67	General Fund Major Streets Fd Local Streets Fd Electric Fund W & S Fund Waterfront Fund Equipment Fund Historical Fund W.T. Water

#7090 – Motion by Grogan, second by Heinz, to approve the bills in the amount of \$334,284.51.

Ayes – 5
Nays – 0

THEREFORE, BE IT RESOLVED, that claims on voucher numbers 7232, 7233, 7234, 7235 and 7236, checked by the finance committee, in the amount of \$334,284.51 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	\$ 88,200.18
Major Streets Fund	984.86
Local Streets Fund	3,005.39
Electric Fund	76,378.01
Water & Sewer Fund	34,073.85
Waterfront Fund	7,612.26
Equipment Fund	6,351.14
Historical Fund	436.86
W.T. Water	5,026.67
Trust Fund	<u>112,215.29</u>
 Total	 \$334,284.51 =====

3. Citizen Comments

None.

4. Consideration of the Purchase of Police Tasers

City Manager Geuder stated that this issue was tabled at the September 19, 2005 City Council meeting. Mayor Jardine had instructed Manager Geuder to place this issue on tonight's agenda. Manager Geuder stated that Chief Branson has done considerable research on this issue and is proposing to purchase the Tasers using unrestricted contributions that were made to the Police Department.

Chief Branson told the Council that the Taser is a non-lethal weapon that delivers an electric shock that is designed to incapacitate combative, high-risk individuals. Chief Branson stated that there are instances when a police officer must use a level of force greater than verbal commands to gain compliance with a directive. In Chief Branson's view, the Taser is another tool in the "Use of Force Continuum". The "Use of Force Continuum" is a decision making model that identifies what the appropriate level of response from a police officer should be based on the level of resistance the police officer faces.

"Verbal Command" is the first level of force. This level of force requires the police officer to direct an individual to do something by using words. Compliance with a "Verbal Command" is usually effective ninety-five to ninety-eight per cent of the time.

Chief Branson stated that after the "Verbal Command" level, the next level of force would be the "Empty Hand Control" level. "Empty Hand Control" involves making contact with an individual and using some level of physical force to obtain compliance. Training for this level of force is very intense and time consuming and requires on-going regular practice to maintain proficiency.

The next level of force would be the use of "Tear Gas". In Harbor Springs, police officers carry pepper spray. Pepper spray is designed to temporarily incapacitate an individual who either is actively resisting or is failing to comply with lawful directions of an officer and the officer believes that lesser force options will not work.

The next level of force would be "Impact Weapons", such as a police baton or nightstick. At this point a police officer would use a wood or metal rod to strike a combative individual to bring that individual under control. This is a "pain compliance" technique. The risk of injury increases for obvious reasons. Chief Branson stated that the Harbor Springs Police Department neither uses nor trains with a police baton or nightstick. Harbor Springs Police Officers do not carry a baton or nightstick while on duty.

The next force option would be "Deadly Force". This would be when a police officer uses a firearm to combat the threat. Harbor Springs Police Officers carry and train with firearms because the possibility does exist that they will need to use that weapon. Chief Branson did state that the chance of using a firearm is remote, but the possibility does exist.

The reason for recommending the use of a Taser is that it is a weapon that would be used either with "Tear Gas" or on the next level of the continuum, but below "Deadly Force". Chief Branson stated that usually our police officers work alone and often, the nearest officer available to assist them is ten to fifteen minutes away.

Chief Branson stated that he has discussed the use of the Taser with Gene King, a risk management consultant with the Michigan Municipal League's Property and Liability Insurance Pool (MML). According to King, the MML has not taken a position for or against Tasers. The MML believes that the use of Tasers in each community is a decision for each City Council or Commission to make. King did stress that should Harbor Springs elect to employ Tasers, it is imperative to have each of our police officers properly trained to use them and that there is clear direction from the Chief when, and under what circumstances, the Taser can be used.

Council members questioned Chief Branson about the use of the Tasers. He was asked if he could guarantee that our police officers will not be over anxious to use them? Chief Branson stated "No." Chief Branson did state that he believed that Harbor Springs Police Officers have not abused their authority with the policies that we currently have in place.

Council members asked City Attorney Ramer if there is a liability issue with the use of Tasers? City Attorney Ramer stated that the City is always subject to potential liability with any Police Department use of force. He did not believe that Tasers would increase the level of liability for the City.

Council members discussed the circumstances for use of the Tasers by the police officers. Chief Branson stated that the use of Tasers, as with any other use of force, is dependent on the "Totality" of the situation. Some examples were cited when the Tasers might be used.

Some recent police actions were discussed that occurred in other communities. Branson said the use of Tasers may have changed how the police officers reacted to those situations.

Council members asked if the Taser could be fatal to someone who had a weak heart? Chief Branson stated information he has is that Tasers do not adversely affect a pacemaker. Chief Branson also stated that "Mace" could not be used in confined spaces. He stated he does not know of anyone suffering a serious injury from the use of "Mace" or "Pepper Spray" in Harbor Springs or Ann Arbor experience.

Council asked about the use of firearms in Harbor Springs in the past. Has it occurred? Chief Branson stated that he did not know of any instance when a firearm was used which resulted in a Harbor Springs Police Officer firing a weapon at another person. Chief Branson went on to describe the fact that the Taser can be used in two ways. One is when the individual is ten to fifteen feet from the police officer and one is when the police officer actually presses the Taser against an individual and pulls the trigger. If the Taser is fired ten to fifteen feet away from the individual, two darts will be shot at the individual and the electric current should incapacitate the individual. However, if a police officer finds himself/herself in close contact with a combative person, the weapon could be placed on the person and an electric shock delivered. Chief Branson demonstrated to the Council where a police officer would wear the Taser.

#7091 – Motion by Kors, second by Heinz, to approve the purchase, with contributed funds, and the use of the Taser weapon for the Police Department, as requested by Chief Branson.

Ayes – Pfeifer, Jardine, Grogan, Heinz and Kors
Nays – None

5. Traffic Control Order No. 004-05

City Manager Geuder stated that Council requested that consideration of Traffic Control Order No. 004-05 be tabled until this Council meeting. Manager Geuder stated that at the September 19, 2005 City Council meeting, Council approved Traffic Control Order 002-05, rescinded Traffic Control Order 003-05, tabled Traffic Control Order 004-05, and approved Traffic Control Order 005-05.

Chief Branson reviewed Traffic Control Order No. 004-05 with Council. He reminded Council that there was "no parking" on the north side of Pine Street to keep the street open for emergency purposes. There was "no parking" on one side of Spring, Center and Elm Streets for the same reason.

Chief Branson stated that people are not permitted to park within twenty or thirty feet of an intersection or stop sign based on state law. Traffic Control Order 004-05 brings the parking regulations at two intersections in line with State Vehicle Code.

Council members briefly discussed Traffic Control Order No. 004-05. After the discussion, the following motion was offered:

#7092 – Motion by Heinz, second by Kors, to approve Traffic Control Order No. 004-05, that prohibits parking:

- a. On the south side of Pine Street within twenty feet east and west of the Center Street intersection,
- b. On the west side of Center Street within twenty feet north and south of the Pine Street intersection,
- c. On the south side of Pine Street within twenty feet east and west of the new entrance / exit to the High School, and
- d. On the west side of Elm Street to a point approximately twenty feet north of the Pine Street intersection.

Ayes – 5
Nays – 0

6. Consideration of Approval for a Front End Loader Purchase

City Manager Geuder stated that during the Budget Process for the 2005 Budget, the purchase of a front-end loader was considered. However, it was decided to withdraw the request and reconsider the purchase in 2006 or bring it back to Council in 2005 if it was determined that the front-end loader purchase should not wait until 2006. Manager Geuder stated that the Department of Public Works was now requesting approval to purchase a front-end loader.

Manager Geuder stated the City received four bids to replace our twenty-one year old John Deere loader with a new one. The four bidders met all of the specifications that were sent to them. The four bids were:

Caterpillar 924GZ	Michigan Cat	\$102,000
Case 521 D	Northern Michigan Equipment	\$91,150
John Deere 444J	JDE Equipment	\$95,793
Komatsu WA200-5	AIS	\$95,300

The DPW staff was able to look at all of the units, except the Caterpillar model. To look at the Case unit, the DPW staff traveled to Vanderbilt. The John Deere and Komatsu models were brought to Harbor Springs. The DPW staff believed that the Komatsu was the best value for the City, and recommended that we purchase that unit.

Manager Geuder's recommendation was for the City to purchase the Komatsu from AIS for \$95,300, which includes a two and a half yard bucket and a ten-foot snow push box.

Council members discussed the front-end loader with the DPW staff members present. After the discussion, the following motion was offered:

#7093 – Motion by Pfeifer, second by Grogan, to approve the purchase of the Komatsu WA200-5 front-end loader from AIS, including a two and a half yard bucket and a ten-foot snow push box at a cost of \$95,300.

Ayes – Jardine, Grogan, Heinz, Kors and Pfeifer
Nays – None

7. MMEA Power Resource Study

City Manager Geuder stated that the City has previously been involved in studies and projects to purchase more generation capability for electricity. The most recent was the Coal-Fired Northern Lights Power Generation Plant that was proposed to be built in Manistee. The proposed power plant project was cancelled because the Manistee Planning Commission did not approve the project.

There is still a need for more electric generation capacity. The Michigan Municipal Electric Association (MMEA) is proposing a study to consider options for additional power resources. Harbor Springs is one of approximately forty municipalities looking at this issue. The City's initial share of the study would be approximately \$1,300.

Manager Geuder stated that both he and Charles Fricke, the City's Electrical Consultant, recommended that the City be a part of this initial study. The Lansing Board of Light and Water has given the Michigan Public Power Agency its five-year notice to withdraw from the Power Pool. It is believed that this will enable Lansing to benefit more by selling their excess power on the open market. Manager Geuder believes that Harbor Springs will be asked to adopt a resolution to dissolve the Power Pool by the end of the year, along with other Power Pool participants. At the same time, municipalities will be seeking new long-term power resources. This study is the beginning of an effort that is underway in the MMEA to form a committee to study potential new power supply ownership options, wholesale contracts, transmission agreements, power dispatch services, as well as potentially pooling existing resources and loads, effectively creating a new Power Pool.

Council discussed this issue with Manager Geuder. After the discussion, the following motion was offered:

#7094 – Motion by Grogan, second by Kors, to approve participation in the Committee of the Michigan Municipal Electric Association to be a part of the Power Resource Study at an initial cost of approximately \$1,300; and to authorize the City Manager to execute the necessary documentation to participate in the Study.

Ayes – 5
Nays – 0

8. Sale of Water System Assets to West Traverse Township

City Manager Geuder stated that he received a letter from the Chairman of the West Traverse Township Water Committee, David Leik. West Traverse Township offered to purchase part of the City of Harbor Springs Water Supply System in West Traverse Township for a price of \$56,600. Manager Geuder explained that West Traverse Township does not wish to purchase the parts of the City's Water Supply System that it cannot use or will have to abandon.

Manager Geuder stressed that the Township has made an offer. Council needs to decide if they want to sell this portion of the City's Water Supply System that is located in West Traverse Township. This letter is an initial offer. Manager Geuder believes that there is room for negotiation. He is looking for Council consensus to proceed with negotiations for the sale of the Water Supply System identified in the letter.

Council members discussed the proposed sale of the Water Supply System assets to West Traverse Township with Manager Geuder. After the discussion, Mayor Jardine polled Council members to determine if they conceptually agreed with the sale of the Water Supply System assets and to authorize the City Manager to proceed with the negotiations of the proposed sale.

The consensus of the Council members was that they agreed, conceptually, with the sale of the Water Supply System assets and that the City Manager be authorized to continue negotiations with the Township for the proposed sale.

9. Request to Fill a Vacant Full-time Position

City Manager Geuder stated that with the retirement of Myrna Proctor and the shifting of employees, the position held by Donna Wood needs to be filled. Patty Sutton moved to the bookkeeper position, which is primarily an accounts payable/accounts receivable position (not including utility billing) and the one that maintains the general ledger. Donna Wood moved into the position vacated by Patty Sutton, which oversees utility billing and payroll. Janet Hendricks will remain in her current position as the City's cashier. The cashier collects all of the payments due the City, including property taxes, utility billings and other miscellaneous accounts receivables.

The individual who fills the position vacated by Donna Wood will be the back up for the cashier, utility billing, payroll, and accounts payable functions. In addition this individual will maintain the City's voter registration roll, do election administration and perform secretarial duties. Another function of this individual is the reconciliation of the cash accounts.

Council discussed the need to fill the position vacated by Donna Wood. After the discussion the following motion was offered:

#7095 – Motion by Kors, second by Heinz, to authorize the City Manager to fill the vacant secretarial position.

Ayes – 5

Nays – 0

10. Appointment of Election Inspectors

City Manager Geuder stated that City Clerk McRae has recommended the appointment of election inspectors for the November 8, 2005 General Election. There will be a total of seven people working the election. Six of the election inspectors will work half a day (three will work from 6:30 am to 2:30 p.m. and three will work from 2:00 p.m. until the ballots are reconciled and counted). One of the election inspectors, Robert Thoma, will work all day and monitor the tabulator.

Norine McBride, Eleanor Jardine and Judy Meyer will work the morning shift. Marge Owens, Terry Thoma and Carol Smelt will work the afternoon shift. Further, the City will pay \$70 each to those election inspectors working half the day and \$140 to the election inspector working all day. The City will also provide the election inspectors their meals.

#7096 – Motion by Heinz, second by Kors, to approve the appointment of the election inspectors and their compensation as listed below:

Norine McBride - \$70	Eleanor Jardine - \$70	Judy Meyer - \$70
Marge Owens - \$70	Terry Thoma - \$70	Carol Smelt - \$70
Robert Thoma - \$140		

The City will also provide the meals for the election inspectors.

Ayes – 5
Nays – 0

11. Update on the Mapping Project

City Manager Geuder reviewed the status of the mapping project with Council and addressed their questions and concerns.

12. Update on the Tree Inventory

City Manager Geuder reviewed the status of the Tree Inventory with Council and addressed their questions and concerns.

13. Update on the M-119, East Bluff Drive and State Street Intersection Project

City Manager Geuder reviewed the status of the M-119, East Bluff Drive and State Street Intersection project with Council and addressed their questions and concerns. Manager Geuder did state that there would be additional costs for the project due to necessary repairs to some manholes and other costs not anticipated.

14. Boards and Commissions

A. Planning Commission (PC)

Mayor Jardine announced that the next PC meeting is scheduled for 6:00 p.m. on Thursday, October 20, 2005 in the City Council Chambers.

B. Zoning Board of Appeals (ZBA)

Council reviewed the minutes for the October 12, 2005 ZBA meeting. Mayor Jardine announced that the next ZBA meeting is scheduled for 5:30 p.m. on Wednesday, November 9, 2005. The meeting will be held in the City Council Chambers.

C. Harbor Commission (HC)

Mayor Jardine announced that the next HC meeting that was scheduled for 4:00 p.m. on Wednesday, October 19, 2005 in the City Council Chambers.

D. Wellhead Protection Informational Meeting

Mayor Jardine and City Manager Geuder announced that the City of Harbor Springs and Little Traverse Township are holding a joint informational meeting to discuss their recently completed Wellhead Protection Plans. The meeting will be held in the Harbor Springs Middle School Cafeteria at 7:00 p.m., on Tuesday, October 18, 2005.

E. Next City Council Meeting

Mayor Jardine announced that the next regular City Council meeting is scheduled for 7:00 p.m., Monday, November 7, 2005. The meeting will be held in the City Council Chambers.

15. Old and New Business

None.

16. Adjournment

With no further business, Mayor Jardine adjourned the meeting at 9:28 p.m.

Approved: November 7, 2005

Ronald B. McRae, City Clerk

Jean Jardine, Mayor

City Council Meeting Minutes
October 17, 2005
Attachments