

April 16, 2007

Mayor Jardine called the eleventh 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, A. J. Blackbird Museum Curator Joyce Shagonaby and City Clerk Ron McRae

2. City Clerk / Comptroller / Treasurer

A. Approval of Minutes

#7288 – Motion by Kors, seconded by Grogan, to approve the March 19, 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:

#7366 – Payroll	P.P.E. 3/18/07	\$ 25,845.63 General Fund 1,858.61 Major Sts Fund 609.69 Local Sts Fund 422.40 Historical Fund 11,036.95 Electric Fund 5,092.54 W & S Fund 254.37 Waterfront Fd 1,825.96 Equipment Fd
#7367 – A/P	Payouts 3/16-3/29/07	\$ 5,664.51 Trust Fd
#7368 – A/P	No Council 3/30/07	\$ 18,051.40 General Fund 76.87 Major Sts Fund 50.00 Local Sts Fund 1,517.33 Historical Fund 134,545.29 Electric Fund 3,719.58 W & S Fund 426.84 Waterfront Fd 2,283.02 Equipment Fd
#7369 – Payroll	P.P.E. 4/1/07	\$ 32,560.07 General Fund 1,101.48 Historical Fund 527.24 Local Sts Fund 422.40 Historical Fund 10,798.51 Electric Fund 6,589.96 W & S Fund 1,547.13 Waterfront Fd 1,355.46 Equipment Fd
#7370 – A/P	Sales Tax Mar '07	3,431.09 General Fund 10,927.82 Electric Fund
#7371 – A/P	Council 4/16/07	44,730.18 General Fund 343.43 Major Sts Fund 1,084.36 Local Sts Fund

#7371 – A/P Continued	Council 4/16/07 Cont.	750.00 Police Res Fd 74.63 Historical Fund 56,790.55 Electric Fund 43,830.59 W & S Fund 4,076.25 W. T. Fund 352.40 Waterfront Fd 26,091.60 Equipment Fd
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#7289 – Motion by Grogan, seconded by Heinz, to approve the bills in the amount of \$460,666.14.

Ayes – 4  
 Nays – 0

THEREFORE, BE IT RESOLVED that claims on voucher numbers #7366, #7367, #7368, #7369, #7370 and #7371, checked by the Finance Committee, in the amount of \$460,666.14 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	\$124,618.37
Major Streets Fund	3,380.39
Local Streets Fund	2,271.29
Police Reserve	750.00
Historical Fund	2,436.76
B. A. Construction Fund	.00
Electric Fund	224,099.12
Water & Sewer Fund	59,232.67
West Traverse Fund	4,076.25
Waterfront Fund	2,580.74
Equipment Fund	31,556.04
Trust Fund	5,664.51
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Total	\$ 460,666.14
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3. Citizen Comments

None

4. Review of Conditions for the Harbor Springs Hotel Planned Development Agreement

City Manager Geuder gave a brief history of the status of the Harbor Springs Hotel (HSH) rezoning and planned development application process. He advised the Council of the remaining matters to be completed. Manager Geuder also stated that he received two letters on the remaining matters to be considered by the Council. The first letter was from Rob Mossburg, the developer. Mossburg requested that Council not place any tighter restrictions on the uses of the green space and rooftop deck than those established by the Planning Commission. Mossburg did state that he would like the option to burn wood in the outdoor fire place, but would understand if Council required it to be fueled by gas. The second letter was from David and Mary Wood, 263 E. Bay St. They opposed any commercial use of the green space area in the area that is currently zoned Transitional Residential and opposed public use of the proposed rooftop deck because they believe that the proposed activities would cause their property value to be adversely affected.

Mayor Jardine stated that she would like to review each condition separately.

A. Changing Gardner Street to a One-Way Street and Parking Restrictions

City Manager Geuder gave a brief overview of the concerns raised during the Planning Commission's consideration of the application by the Hotel for Special Land Use approval, the application for Rezoning and the application to be approved as a Planned Development. Manager Geuder stated that changing Gardner Street to a one-way street is a Council issue. It is not a Planning Commission issue, and it was not required by the Planning Commission in its Special Land Use Approval. Mayor Jardine asked if anyone had any comments on making Gardner Street one-way with traffic moving south from East Main Street to East Bay Street.

Bruce Ohmart, 302 E. Main St., stated that making Gardner Street one-way would be safer for pedestrians, and better for traffic flow.

Michael Corcoran, Attorney representing David and Mary Wood, 263 E. Bay St., stated that the overall parking situation needs to be considered. Making Gardner Street one-way is a good start, but stated that parking was a broader issue. Corcoran stated that the City's parking ordinance requires one parking space for every twenty-five square feet for an assembly space. The plans for the Hotel do not show parking for the functions using the proposed green space or deck area.

There were no other public comments on this issue. Mayor Jardine asked for comments from Council members.

Councilperson Kors asked Chief Branson if this issue was created because of the hotel development. Chief Branson stated the issue was not created by the hotel development, but the hotel development was the catalyst to bring the issue to the forefront. Chief Branson then discussed the benefits of making Gardner Street one-way.

Councilperson Grogan asked for a clarification of Chief Branson's statement. Chief Branson stated that making Gardner Street one-way is not essential. However, it would be safer for pedestrians and vehicle traffic. Further, Chief Branson stated that by making Gardner Street one-way to the south, it would eliminate turns on to East Main Street where the lines of sight are often blocked by the close proximity of vehicles parked near the intersection.

Mayor Jardine asked if it was necessary to make Gardner Street one-way immediately. Chief Branson stated no, that action could occur anytime. Chief Branson stated that Council should not make Gardner Street a seasonal one-way street. That would be confusing for vehicle traffic. Lastly, due to summer parking issues, Chief Branson stated that he recommended continuing parking on both sides of Gardner Street.

Councilperson Grogan stated that he believed that this issue should be tabled until such time that it becomes necessary due to hotel operations. After a brief discussion, the following motion was offered:

#7290 – Motion by Grogan, seconded by Kors, to table the issue of making Gardner Street one-way until such time that it becomes necessary.

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

B. Restriction on Outdoor Activities on the Proposed Hotel Green Space

Mayor Jardine stated the second condition for Council to review involved the restrictions on outdoor activities on the green space of the proposed Hotel.

Councilperson Grogan asked about the proximity and number of restrooms for people to use who have activities on the proposed green space. Manager Geuder stated that this issue was raised by the Larry Nix, the City Planner, during the Planning Commission review of this issue. There are limited restrooms proposed for the main floor of the hotel that would be accessible to persons using the green space.

Councilperson Kors stated that the term “audible” in the restriction limiting acoustic music to that which was not audible from adjacent properties seemed too restrictive. To her the phrase “Shall not be audible from adjacent property” was either too restrictive or vague. She would like to change the noise level requirement to a quantitative limit. Councilperson Kors stated that she did not want to hold this process up if this were the only issue being questioned, because the Planning Commission would have the ability to review the restrictions each year.

Councilperson Grogan stated that he agrees with Councilperson Kors on this issue.

Pringle Pfeifer, 437 E. Bluff, also felt that the phrase “shall not be audible from adjacent property” was too restrictive.

City Attorney Ramer stated that in approving the Rezoning or Planned Development application, Council could not relax that restriction, because the Planning Commission had adopted that condition as part of its Special Land Use approval. Council could, however, send this issue back to the Planning Commission with a request to review that condition.

Michael Corcoran stated that his clients, David and Mary Wood, oppose any use of the proposed green space for commercial use.

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

#7291 – Motion by Grogan, seconded by Heinz, to table consideration of the restrictions on the use of the green space, and to request the Planning Commission to review the proposed noise restrictions and to consider quantifying the noise levels to be restricted.

Ayes – 4

Nays – 0

C. Restrictions on the Outdoor Fireplace

Mayor Jardine stated that Council would now review the proposed outdoor fireplace.

City Manager Geuder briefly reviewed some the concerns expressed during the Planning Commission review of this issue. He also informed Council that Fire Chief Schiller reviewed this issue. Chief Schiller stated that the Fire Department did not have jurisdiction over this particular use. The developer would have to follow the applicable building codes.

Councilperson Heinz stated that he was concerned with permitting wood burning in an outdoor fireplace. If the chimney is not high enough the air pressure will hold the smoke down and it will bother neighbors and guests alike. Further, Councilperson Heinz stated that he wasn't even sure what the proposed outdoor fireplace looked like. He was wondering if the outdoor fire place was a pit, what size is it, and what is the proposed height of the chimney?

Councilperson Grogan asked if there was an ordinance covering woodburning furnaces. City Attorney Ramer stated that the ordinance had not been approved; however, there

had been an amendment to the Code adopted in 2006 restricting outdoor burning to residential properties for small camp fires, barbeque pits, etc.

Councilperson Kors suggested that Council could require the fire place to be fueled with gas to eliminate the wood smoke.

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

#7292 – Motion by Heinz, second by Grogan, to table consideration of the use of an outdoor fireplace at the Hotel until Council members had received specific drawings and plans for the outdoor fireplace from the developer.

Ayes – 4  
Nays – 0

#### D. Restrictions on the Use of the Rooftop Deck

Mayor Jardine stated that Council would now review the restrictions on the use of the rooftop deck. City Manager Geuder noted that the issues were similar to the use of the green space.

Bruce Ohmart stated that noise does not go up, it goes down. He was not in favor of allowing the use of the proposed rooftop deck.

Pete Wallin, representing his parents, who own 307 E. Bay St., apologized for being late and commented on the traffic issues considered earlier. Wallin expressed his concerns on the use of the green space restrictions. He also discussed his concerns regarding noise.

The City Manager noted that the rooftop deck is only over the two-story portion of the hotel, and asked the developer, Mr. Mossburg, if there was any deck planned for the three-story portion. Mossburg stated that there was no deck planned for above the three-story portion.

Council discussed the fact that the noise level from the rooftop deck is too restrictive. Again, Council discussed sending this issue back to the Planning Commission for consideration of amending the restriction to establish quantitative standards for the volume of noise that would be prohibited.

Councilperson Heinz asked when the Planning Commission could reconsider the proposed noise restrictions. Manager Geuder stated that the Planning Commission could reconsider the noise issue at their May 17<sup>th</sup> meeting. Councilperson Heinz then asked Rob Mossburg, the hotel developer, when the proposed project was scheduled to begin construction. Mossburg stated that as soon as he received approval from the Circuit Court, and when he had pre-sold enough of the units, he would proceed.

After further discussion on the noise issue, the following motion was offered:

#7293 – Motion by Grogan, seconded by Heinz, to table the approval of the restrictions on the roof deck use. Further, to request the Planning Commission to review the proposed noise restrictions and to consider quantifying the noise levels to be restricted.

Ayes – 4  
Nays – 0

#### 5. Consideration of a Planned Development Agreement for the Proposed Hotel

City Manager Geuder and City Attorney Ramer stated that action on this item should be postponed until the Council determines that the matters under consideration, as discussed above, have been resolved to the Council's satisfaction.

6. Proposed Bike Loan Program

City Manager Fred Geuder stated that the proposed bike loan program request is being presented by Mary Ellen Hughes, owner of Mary Ellen's Place.

Hughes reviewed the bike loan program. She stated that there is no liability with this program because it is not a bike rental program. The bicycles would be used free of charge. The bicycles would be sponsored by a merchant. The merchant would be responsible for the maintenance on the bicycle sponsored. Bicycles could be purchased, obtained through the abandoned bicycles picked up by the Police Department or through donations. The bicycles would be painted to identify them as part of the bike loan program. Hughes stated that she would be responsible for policing this program.

Mayor Jardine asked if this program wasn't tried a few years ago. Hughes stated that the program was proposed, but never got implemented because of the liability issues at the time. Mayor Jardine thought this was a good idea.

Councilperson Grogan asked how many merchants were willing to sponsor a bicycle. Hughes stated that there were approximately a half dozen businesses willing to sponsor one or more bicycles at this time.

Pringle Pfeifer, 437 E. Bluff, asked if there were any restrictions to the use of bicycles on the sidewalks downtown. Chief Branson stated that there are restrictions on the use of skate boards and roller blades, but not bicycles.

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

#7294 – Motion by Kors, seconded by Grogan, to approve the bike loan program, as presented by Mary Ellen Hughes, on a trial basis for one year.

Ayes – 4  
Nays – 0

7. Andrew J. Blackbird Museum Request for Quill Books

City Manager Geuder stated that the City ran out of Quill Box Books a number of years ago. In January of 2003 Council approved an advance of \$15,971 to the Historical Fund to reprint 3,000 copies of the Quill Box Books. After the approval was given, the possibility of doing the Quill Box Books "on line" was considered. The cost per book would have been higher, but the book could have been printed on demand. This was not done for various reasons.

The Blackbird Museum Board has done some further research because of the continued demand for the Quill Box Book. We would be able to print 3,000 copies at a cost of \$23,020 (plus shipping).

Joyce Shagonaby, the Andrew J. Blackbird Museum Curator, stated that she believes that the Quill Box Books would sell for the proposed sale price of \$25 each. Further, if someone wishes to purchase twelve or more books at a time, the books will sell for \$16.25 each. That is a 35% discount.

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

#7295 – Motion by Grogan, seconded by Heinz, to approve the purchase of 3,000 Quill Box Books with an advance from the General Fund to the Historical Fund for the cost of the 3,000 copies. The Historical Fund is to repay the General Fund as the Quill Box Books are sold.

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

8. Boundary Adjustment Proposal for West Third Street

City Manager Geuder stated that the property lines between the parcels on the north side of West Third Street from Church Street west to Traverse Street need to be adjusted. The City assumed it owned to the back side of the sidewalk. Unfortunately that may not be the case. The actual property lines are shown on the Tentative Parcel Split Map prepared by Benchmark Engineering, Inc., revised January 31, 2007.

Further, the property lines between the Corbin, Superlak and Swiss parcels need to be adjusted to eliminate encroachment by one neighbor on the other neighbor's property. Manager Geuder would like to resolve those encroachment issues when the City resolves the West Third Street right-of-way issues.

Manager Geuder did note that the garage and house on the Corbin parcel also encroaches on the alley right-of-way. The house on the Swiss parcel also encroaches on the alley right-of-way. Manager Geuder stated that it is not proposed to quit claim any alley property to resolve those encroachments.

Manager Geuder proposed that the City quit claim to the individual properties the parcels created from the back of the sidewalk to the West Third Street right-of-way property lines. Those parcels are labeled A through F. However, the property owners of the parcels labeled 1, 2 and 3 would quit claim the property to each other to better delineate their property lines, as presented on the Tentative Parcel Split Map.

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

#7296 – Motion by Kors, seconded by Heinz, to approve the quit claim of parcels A through F, as presented on the Tentative Parcel Split Map prepared by Benchmark Engineering, Inc. revised January 31, 2007 with the condition that the owners of Parcels 1, 2 and 3 quit claim to each other the property to better delineate their property lines as presented on the Tentative Parcel Split Map referenced above.

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

9. Review of the Projected Millage Rate for 2007

City Manager Geuder reviewed the 2007 Millage Rate Projections memorandum from the City Clerk. Manager Geuder stated that a "Truth in Taxation" public hearing needs to be held to approve a millage rate to meet the budgeted needs of the City. The 2007 proposed millage rate for the City is 5.8774 mills. The millage levied in 2006 was 6.0047 mills.

Manager Geuder also addressed holding a public hearing on the proposed utility rate increases.

Council discussed the various projected 2007 millage rates and proposed utility rate increases. After the discussion the following motion was offered:

#7297 – Motion by Heinz, seconded by Grogan, to hold a "Truth in Taxation" Public Hearing at 7:00 p.m. on Monday, May 7, 2007 to receive public comment on levying an

operating millage of 5.8774 mills on July 1, 2007 to meet the 2007 budgeted needs of the City. Further, to authorize a second public hearing on the proposed increase of the utility rates.

Ayes - 4  
Nays - 0

10. Sale of the Police Reserve Fund Proctor and Gamble Common Stock

City Manager Geuder stated that the City Clerk received prices for brokerage services to sell the Proctor and Gamble Common Stock that was donated to the Police Reserves before the Police Reserves were actually part of the City. The value of the stock is \$84,833.28 as of December 31, 2006. David Balok, Harbor Springs Financial Group, stated he would handle the sale of the stock for a minimum fee of \$125.

Council members questioned City Clerk McRae about the amount of money being earned. City Clerk McRae state that currently the City receives \$1,200 to \$1,400 per year in dividends. At the present time the City receives 5.25% to 5.31% on its investments. That would generate approximately \$5,000 per year in interest earnings.

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

#7298 – Motion by Kors, seconded by Heinz, to authorize the sale of the Proctor and Gamble Common Stock utilizing the brokerage services of David Balok, Harbor Springs Financial Group, for a minimum fee of \$125, and to deposit said proceeds into the Police Reserve Fund.

Ayes – 4  
Nays - 0

11. Resolution Recognizing Volunteer Service of a Reserve Police Officer

City Manager Geuder reviewed the volunteer service of twenty-two years that Reserve Officer Eric Barkley has given to the Police Department. Chief Branson stated that he would like Council to pass a Resolution thanking Officer Barkley for his dedicated service.

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

#7299 – Motion by Grogan, seconded by Kors, to thank Reserve Officer Eric Barkley for his twenty-two years of dedicated service to the Reserve Police Unit and to the Harbor Springs Police Department. Further, to authorize Mayor Jardine, Chief Branson and Reserve Liaison Office Matt Pater to sign the “Certificate of Appreciation to Eric Barkley”.

Ayes – 4  
Nays - 0

12. Electric Rates – Senior Citizen Discount

City Manager Geuder stated that the City does have a Senior Citizen Discount for electric. The discount is that senior citizens, age 62 years and older, with a household income of less than \$15,000 does not have to pay the fixed rate portion of the electric rates. The Senior Citizen Discount is applicable to both in-City and out-City senior citizen customers meeting the age and income qualifications. Manager Geuder noted that there are about fifty-five senior citizens receiving the Senior Citizen Discount.

Manager Geuder recommended that if the City were to keep the Senior Citizen Discount Program that it be based on the minimum age of 62 years and an income less than two times the guidelines for the poverty exemption for property taxes adopted by Council in 2001. The current Federal poverty guidelines consider poverty for a single person at \$9,800 or less. To qualify for the Senior Citizen Discount an individual could not have a household income greater than \$19,600. The Federal poverty guidelines set \$13,200 for a family of two. To qualify for the Senior Citizen Discount a family of two could not have a household income greater than \$26,400.

Council discussed this issue. It was a consensus to keep the Senior Citizen Discount Program as recommended by City Manager Geuder.

### 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, April 19, 2007.

#### B. Next City Council Meeting

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

### 14. Old and New Business

#### A. Cars Parked on Main Street during the Snow Storm

Mayor Jardine asked about a car being parked on Main Street for an extended period of time during a snow storm. Branson said our winter parking restriction ended April 1<sup>st</sup>. Branson said that we used to have a prohibition of parking for 48 continuous hours in one place. He said he could not find it in the current code or Uniform Traffic Code.

#### B. Chain of Command

Mayor Jardine stated that she would like to have City Manager consider a chain of command to handle things if the Manager is not present. Manager Geuder stated that in his absence usually the Department Heads take care of their own issues within their Departments. There is no specific individual designated as an Assistant City Manager. However, he will review this issue and get back to Council.

### 15. Adjournment

With no further business, Mayor Jardine adjourned the meeting at 8:38 p.m.

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Ronald B. McRae, City Clerk

Approved: May 7, 2007

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Jean Jardine, Mayor

Attachments