

October 3, 2016

Mayor Pfeifer called the twenty first meeting of the eighty-third Harbor Springs City Council to order at 7:00 p.m., in the City Council Chambers at the City Hall, 160 Zoll Street, Harbor Springs, Michigan.

1. Roll Call and Verification of Quorum

City Council:

Present: Pringle Pfeifer, Matt Bugera, John L. Cupps, Alan J. Dika and Jeffrey V. James

Absent: None

City Clerk McRae stated that a quorum was present.

Also Present: City Manager Thomas C. Richards, City Attorney James T. Ramer, Police Chief Daniel J. Branson, Planning & Zoning Administrator C. Jeffrey Grimm, Deputy City Clerk Michelle R. Main and City Clerk Ronald B. McRae

City Clerk McRae stated that new employee, Michelle R. Main, the Deputy Clerk of Elections and Administration and Administrative Assistant, was being trained to take minutes for the City Council Meetings.

City Manager Richards stated that if there were no City Council objections, he would like to add an agenda item to consider a request from the Salvation Army to permit fundraising during the December 3, 2016 Merchants' Open House. There were no objections.

2. City Clerk / Comptroller / Treasurer

A. Approval of Minutes

#8395 – Motion by James, second by Cupps, to approve the minutes of the September 19, 2016 regular City Council Meeting as read.

Ayes – 5

Nays – 0

Motion carried.

B. Approval of Bills

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

<u>Voucher Number</u>	<u>To or For</u>	<u>Description</u>	<u>Fund</u>	<u>Amount</u>
8406	MPPA 9/1/16	Wire	Electric	\$31,782.97
8407	MPPA 9/7/16	Wire	Electric	\$20,568.87
8408	MPPA 9/14/16	Wire	Electric	\$67,651.09
8409	MPPA 9/21/16	Wire	Electric	\$30,836.99

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<u>Voucher Number</u>	<u>To or For</u>	<u>Description</u>	<u>Fund</u>	<u>Amount</u>
8410	PAYROLL	P.P.E 9/18/16	General	\$37,675.98
			Major St.	905.08
			Local St.	390.49
			Historical	920.88
			Electric	11,057.35
			Water & Sewer	5,427.05
			Waterfront	4,087.96
			Equipment	2,683.10
8411	A/P 9/1/16 – 9/15/16		Trust	\$86,022.66
8412	A/P	Council 10/3/16	General	\$17,682.12
			Major St.	0.00
			Local St.	0.00
			Historical	32.53
			DDA/PSD	968.00
			Electric	34,750.24
			Water & Sewer	2,682.95
			WTTp Water	0.00
			Waterfront	3,085.77
			Equipment	4,404.93
8413	MPPA 9/30/16 Wire		Electric	\$23,674.59

THEREFORE, BE IT RESOLVED that claims on vouchers 8406, 8407, 8408, 8409, 8410, 8411, 8412, and 8413, as checked by the Finance Committee, in the amount of \$387,291.60 be allowed for payment, and the Mayor and the City Manager are hereby authorized to execute warrants to be drawn on the following funds:

General	\$ 55,358.10
Major St.	905.08
Local St.	390.49
Historical	953.41
DDA/PSD	968.00
Electric	220,322.10
Water & Sewer	8,110.00
West Traverse Water	0.00
Waterfront	7,173.73
Weather Buoy	0.00
Equipment	7,088.03
Trust	86,022.66
Totals	\$ 387,291.60

#8396 - Motion by James, second by Cupps, to approve the bills in the amount of \$3,980,175.02.

Ayes – 5  
 Nays – 0

Motion carried.

3. Citizen Comments

None

4. City Manager's Section

A. Public Hearing on the Proposed Special Assessment Roll

City Manager Richards stated that the proposed Assessment Roll to levy \$365 per real commercial parcel on behalf of the Principal Shopping District (the "PSD") has been considered and recommended by the Downtown Development Authority (the "DDA") and PSD Board and has been appropriately advertised for this evening. He stated that the last step to be considered was City Council approval of the special assessment by resolution.

Mayor Pfeifer opened the Public Hearing on the proposed Special Assessment Roll at 7:03 p.m.

City Manager Richards stated that, after considering many alternatives, the DDA / PSD Board recommended a flat assessment for all real non-residential parcels.

Bill Brown, 629 E. Main St., asked if the City would be taking on any liability if the special assessment were not levied. City Manager Richards stated that the programs would be placed on hold if the Special Assessment did not happen.

Mayor Pfeifer asked if there were any other comments. Hearing none, she closed the Public Hearing at 7:05 p.m.

B. Consideration of the Resolution to Confirm the Proposed Special Assessment Roll

#8397 – Motion by James, second by Dika, to approve the "Resolution Confirming the Special Assessment Roll" for the fiscal years ending December 31, 2016 and December 31, 2017, to be levied on the December 1, 2016 property tax bills and on the July 1, 2017 property tax bills by the City Treasurer.

Ayes – James, Pfeifer, Bugera, Cupps and Dika  
Nays – None

Motion carried.

C. Discussion on Food Truck 2017 Options

City Manager Richards stated that the City Council Members indicated an interest in discussing the current "Food Truck" operations in Harbor Springs and to review concerns that have been mentioned by members of City Council and by the public at large. City Manager Richards stated that he has taken some pictures of the Food Trucks during their operations.

Mayor Pfeifer stated that she believed that the Food Trucks did block or impair the view. Councilperson James stated that he has thought about the egress of the Food Trucks on E. Bay Street. Further, Councilperson James thought that a good location for the Food Trucks would be on W. Main Street, West of the alley which runs north and south along the east side of Upper Zorn Park. Councilperson Cupps believed that he wouldn't want the Food Trucks across the street from his property if he owned the Sip and Ski. Further, the question of having service vehicles parked with the Food Trucks was reviewed. City Manager Richards stated that he had previously addressed the issue of improper parking of said vehicles whenever the issue was noticed or brought to his attention in the past.

City Council discussed various locations where the Food Trucks could potentially be re-located to so that they are not as intrusive as there were when located on W. Bay St. Some of the locations considered were:

- On a green space or parking lot area, such as the lot north of the Burley Building on Spring Street;
- In the parking spaces on the south side of Shay Park on E. Bay St. and Judd St.;
- In the parking spaces on the northwest corner of Gardner St. and E. Bay St.;
- In Ford Park;
- In Upper Zorn Park along W. Main St.; and,
- In parking spaces by the City Beach and Lower Zorn Park.

City Manager Richards stated that in 2016, four Food Trucks operated. He noted that two of the four Food Trucks will not be returning next year.

Councilperson Bugera stated that the Food Trucks are cheaper than purchasing or leasing a building. Perhaps the rates should be increased next year. Discussion followed about the method of setting an appropriate fee.

City Manager Richards asked if Council would like the Portable Food Vendor Committee to review these concerns and respond to Council with recommendations. By consensus, that proposal was supported by Council. Smolinski reviewed some of the comments of City Council members. She said she would present those comments to the Committee.

There was no action taken on the 2017 policy for the operation of Food Trucks.

#### D. Ottawa Street and Lake Street Intersection Pavement Bids

City Manager Richards stated that he received two bids to repair failing pavement at the intersection of Ottawa St. and E. Lake St. They were:

- |                                     |          |
|-------------------------------------|----------|
| • Spierling Trucking and Excavation | \$12,626 |
| • Rieth-Riley                       | \$21,677 |

No bid was received from Payne and Dolan.

City Manager Richards stated that the original budgeted amount was \$10,000. However, after Benchmark Engineering reviewed the project, they recommended expanding the project area to properly crown an adjacent section of the street to improve drainage. City Manager Richards recommended awarding the contract to Spierling Trucking and Excavation at their bid price of \$12,626.

#8398 – Motion by Cupps, second by James, to authorize the City Manager to execute an agreement with Spierling Trucking and Excavation in the amount of their bid of \$12,626 to replace the intersection at Ottawa Street and East Lake Street.

Ayes – 5  
Nays – 0

Motion carried.

#### E. Authorization to Sell the Retired 2005 Chevrolet Impala Police Car at Market Price

City Manager Richards stated that sale of the 2005 Chevrolet Impala Police Car was awarded

to the high bidder, but upon being notified the high bidder immediately withdrew his bid without giving a reason. City Manager Richards pointed out that this was the second failed attempt to sell the former police car by the sealed bid process.

City Manager Richards stated that Staff is recommending that City Council approve the sale of the vehicle at a fair market price. The recommended price range was \$2,300 or higher.

It was the consensus of City Council to authorize the City Manager to sell the retired police car for a minimum of \$2,300.

F. Michigan Municipal League Liability and Property Pool Board of Director Candidates

City Manager Richards stated that the Michigan Municipal League ("MML") Liability and Property Pool Board of Directors has two incumbents seeking re-election to their Board Seats. City Manager Richards stated he had no information that they should not be re-elected nor did he have any suggestions of alternate candidates to replace them.

#8399 – Motion by Cupps, second by James, to authorize the City Manager to vote for the candidates recommended by the nominating committee.

Ayes – 5

Nays – 0

Motion carried.

G. M-119 Traffic Study for MDOT Approval of Harbor Way Design

City Manager Richards stated that City Council members saw the presentation of the revised "Harbor Way" design for our multi-use pathway connecting the Little Traverse Wheelway to downtown and waterfront areas in Harbor Springs.

City Manager Richards stated that the revised designs proposed should dramatically improve the safety of the Lake Street and M-119 intersection. The benefits of having the traffic islands were also reviewed. Further, in order to obtain Michigan Department of Transportation ("MDOT") approval, the traffic study required by MDOT must be done.

Smolinski felt that fundraising for the project would be very difficult until we have assurances from MDOT that the plan can be approved. The total Harbor Way Project is estimated to cost \$320,000.

Councilperson Cupps asked if the City has the \$10,000 for the "Traffic Study". City Clerk McRae stated that the City did have the \$10,000. However, City Clerk McRae suggested that the General Fund provide the funds. The \$10,000 would be transferred to the Local Street Fund. The Study billings would be paid through the Local Street Fund.

Councilperson Cupps asked Smolinski if the Traffic Study could be used for anything besides the Harbor Way Project Approval. Smolinski and Chief Branson discussed possible uses for the Traffic Study, which could possibly be used in speed limit considerations by MDOT.

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

#8400 – Motion by James, second by Cupps, to authorize the approval of the MDOT Traffic Study to help with the consideration of the Harbor Way Design plan; further, to authorize the City Manager to approve said study at a cost of \$10,000, with the funds approved from the General Fund to be transferred to the Local Street Fund.

Ayes – 5  
Nays – 0

Motion carried.

H. Consideration of the Salvation Army Fund Raising Request

City Manager Richards stated that the Salvation Army is requesting City Council approval to conduct fundraising during the December 3<sup>rd</sup> Merchants' Open House. Greg and Bethany Irwin introduced themselves. Greg stated that they would like to use a tripod with an old metal kettle hanging from it. Greg also stated that they would like to dress up in the Charles Dickens era costumes.

Greg stated that the kettle would be set up near the Christmas Tree or Island Bean.

#8401 – Motion by Cupps, second by James, to authorize the City Manager to approve the Salvation Army's request to fund raise during the December 3<sup>rd</sup>, Merchant's Open House, as requested.

Ayes – 5  
Nays – 0

Motion carried.

5. City Manager's Report

A. Marina Recreation Plan

City Manager Richards stated to meet the requirement for any community applying for a Waterways Commission or any other DNR grant, a five-year waterfront recreation plan is currently being developed.

City Manager Richards stated that this Recreation Plan is being developed with the help of Rachel Smolinski, the Executive Director of H.A.R.B.O.R., Inc. Further, City Manager Richards stated that people may have already read the invitation to participate in the Waterfront Survey. The Waterfront Survey has been publicized and is being sent directly to all of the dock, mooring, and kayak storage customers using the City's marina. The results of the survey will be used in developing the recreation plan over the coming weeks.

No further action was taken on this issue.

B Odawa Lawsuit

City Manager Richards stated that the lawsuit filed by the Odawa Tribe against Governor Snyder has come to the point that the Tribe has provided the Court with a list of witnesses they expect to call. The witness list includes a number of current tribe members, tribe employees, and historians. Tribal historians will likely attest to what their expertise leads them to believe what tribal members of the era might have understood the various treaties and agreements to mean over one hundred fifty (150) years ago. City Manager Richards stated these very brief and simple agreements are public documents that the City Staff can provide them to anyone interested in seeing them.

C. Energy Legislation

City Manager Richards stated that the Michigan legislature appears to be getting close on two bills that would help set the course for the State's electric energy regulation for the future. The bills being considered address renewable energy requirements, electric reliability, generation adequacy and the responsible balance between regulated electric utilities and alternative energy suppliers (AES) that are currently limited to serving up to a maximum of 10% of the market.

City Manager Richards stated that one element being proposed is a requirement that the AES demonstrate that they can consistently meet the anticipated energy requirements of their customers, including a required reserve margin for high usage periods. City Manager Richards stated that under the 2008 legislations, AESs aren't required to own generating facilities, but are allowed to sell lower cost energy to the customers connected to other regulated utilities whenever they can acquire it. City Manager Richards stated that under the proposed legislation, if an AES is unable to guarantee adequate power supplies and reserves, the AESs would be required to pay another generator to provide it.

City Manager Richards stated that under the current regulation, a traditional or regulated utility is required to constantly keep generation in reserve to serve the load of all customers connected to their system, even those customers who have chosen to purchase their energy from an AES. City Manager Richards stated that the proposed legislation would help to level the playing field, and help prevent the customers of regulated utilities from having to subsidize the lower electric costs offered by AES providers.

City Manager Richards stated that generation adequacy is becoming a critical issue with the planned closures of coal-fired generation plants. Further, this issue is becoming even more difficult for utility companies to maintain the generation needed for their own customers, without the City added capacity needed for the customers who have chosen an AES. City Manager Richards believes that the legislature is unlikely to take any action until after the November 2016 election.

No further action was taken on this issue.

D. Downtown Tax Increment Financing Legislation

City Manager Richards stated that bills are pending to curb what our legislators believe are potential abuses of Tax Increment Financing (TIF) for DDAs. The proposed legislation would add:

- Substantial new reporting requirements;
- Penalties for non-compliance;
- Requirements for annual meetings; and,
- Limitations on TIF capture for millages approved after a certain date.

City Manager Richards stated that we are working to protect cities from any negative impacts for the TIF capture needed to help our downtown projects.

E. Advertising for Replacing the Retiring City Clerk / Comptroller / Treasurer

City Manager Richards stated that the job of our City Clerk / Comptroller / Treasurer is being advertised to fill the position upon the retirement by Ron McRae, January 13, 2017. The position is being advertised in the Harbor Light, the Petoskey News Review, through the MML and the Michigan Finance Officers Association. City Manager Richards stated that he would like to begin reviewing candidates on October 7, 2013.

No further action was taken on this issue.

F. M-119 Maintenance Issue with MDOT

City Manager Richards stated that last Thursday, without any prior notice, a pavement maintenance crew was on East Main St., with intersections blocked and lanes closed. DPW Director Lucas VanderZee and the City Manager confronted the crew. The crew was hired by MDOT to do crack repairs.

After discussing the issue with the MDOT contractor, contact was made with MDOT. MDOT had the crack sealing scheduled for a different week and the contractor had the wrong week. It was made clear to MDOT the City does its best to let citizens know what is happening.

G. Schedule of Up-Coming Board and Commission Meetings

City Manager Richards reviewed the upcoming Board and Commission meetings. The schedule is as follows:

- The Harbor Commission will be meeting at 4:00 p.m., Wednesday, October 12, 2016 in the City Council Chambers, 160 Zoll Street, Harbor Springs, MI 49740.
- The Zoning Board of Appeals will be meeting at 5:30 p.m., Wednesday, October 12, 2016 in the City Council Chambers at City Hall, 160 Zoll Street, Harbor Springs, MI 49740.
- The DDA / PSD Board will be meeting (joint with the Chamber of Commerce) at 8:00 a.m., Thursday, October 13, 2016 in the City Council Chambers at City Hall, 160 Zoll Street, Harbor Springs, MI 49740.
- The Planning Commission will be meeting at 6:00 p.m., Thursday, October 20, 2016 in the City Council Chambers at City Hall, 160 Zoll Street, Harbor Springs, MI 49740.

H. Electric Department Monthly Reports

City Manager Richards stated that the Electric Department Report for the September 2016 activity is in the City Council packets.

6. Appointments

Mayor Pfeifer stated that she had no appointments to make this evening.

7. New and Old Business

A. Line 5 Program at the Lyric Theater

Councilperson James stated that the Lyric Theater has set a date for an educational program about Line 5, which is a pipe that carries petroleum or crude oil across the Straits of Mackinaw.

B. Congratulations

Councilperson Dika stated that the organizers of the "Festival of the Book" should be congratulated on their very successful inaugural event.



**RESOLUTION  
OF  
THE CITY COUNCIL OF  
THE CITY OF HARBOR SPRINGS  
(a Michigan municipal corporation)**

October 3, 2016

**RESOLUTION CONFIRMING THE SPECIAL ASSESSMENT ROLL**

At a regular meeting of the City Council of the City of Harbor Springs, Emmet County, Michigan, held in the Council Chambers at 160 Zoll Street, Harbor Springs, Michigan 49740, at 7:00 p.m. on the 3rd day of October, 2016, the following resolution was offered by Councilperson James and supported by Councilperson Dika:

WHEREAS, the City has considered implementation of the proposed improvement described below ("the Project") and has further requested the establishment of a special assessment district to finance and defray the costs of the Project; and,

WHEREAS, the proposed improvement ("the Project") consists of:

- Administration services for the DDA/PSD including the research, development and implementation of goals, initiatives, and activities within the City of Harbor Springs DDA/PSD; and,
- The development and implementation of a wayfinding system within the City of Harbor Springs DDA/PSD to assist with navigation, branding, and to maintain consistency with informational and directional signage; and,
- Planning and implementation of holiday lighting on the portion of Third Street located within the City of Harbor Springs DDA/PSD; and,

WHEREAS, plans for the Project, and an estimate of the cost of the Project in the amount of Ninety-One Thousand Eight Hundred and No/00 (\$91,800.00) Dollars have been prepared and notice has been given, according to law to the owners of the property in the district with respect to a public hearing for the purpose of presenting any objections to the project and to the special assessment district; and,

WHEREAS, on September 19, 2016, the City Council adopted a Resolution Declaring Necessity and to Proceed with the Project and to Defray the Cost of the Project By Special Assessment Upon Specially Benefited Properties; and,

WHEREAS, the City Council has conducted a public hearing for the Project and establishing a special assessment to finance and defray the cost of the Project; and,

WHEREAS, the Project is designed and intended to specially benefit the properties identified in the special assessment district attached to this Resolution, which will be designated as Principal Shopping District Special Assessment District No. 1 (the "District"); and,

WHEREAS, plans for the Project, the estimated cost of the project in the amount of Ninety-One Thousand Eight Hundred and No/00 (\$91,800.00) Dollars and the special assessment district have been approved by the aforementioned resolution of the City Council following the required public hearing; and,

WHEREAS, in accordance with the direction of the City Council, the Assessor has prepared a special assessment roll allocating the total cost of the project to the properties within the district according to law, and the Assessor has filed such roll with the City Clerk.

NOW, THEREFORE, it is hereby RESOLVED as follows:

1. The City Council has heard and considered all objections to the special assessment roll.
2. The City Council determines that the assessments are in proportion to the benefits to be derived therefrom.
3. The City Council hereby CONFIRMS the special assessment roll, and hereby places said special assessment roll on file with the City Clerk- Treasurer. The owner or any party having an interest in the real property may file a written appeal of the special assessment with the Michigan Tax Tribunal within thirty (30) days after the date of this confirmation of the special assessment roll.
4. The City Council directs that the City Clerk-Treasurer shall notify by mail each property owner on said roll that said roll has been filed and confirmed and stating the amount assessed.
5. The City Council directs that the City Clerk-Treasurer shall assess and collect the amounts on said roll in two (2) installments, as follows:
  - (a) The first of said installments shall be assessed and shall be due and payable on December 1, 2016, and shall be collected in the same manner and subject to the same conditions as other taxes billed and collected by the City on said date and upon said roll; and,
  - (b) The second of said installments shall be assessed and shall be due and payable on July 1, 2017, and shall be collected in the same manner and subject to the same conditions as City taxes on said date and upon said roll.

6. As provided by law, this special assessment shall be and remain a lien upon the property assessed of the same character and effect as the lien created by the general tax law for State and County taxes, and by the City Charter for City taxes, until paid.

Ayes: 5  
Nays: 0  
Abstain: NONE

**RESOLUTION DECLARED ADOPTED**

STATE OF MICHIGAN )  
COUNTY OF EMMET )

I hereby certify that the foregoing is a true and complete copy of a resolution that was passed by the City Council of the City of Harbor Springs at a regular meeting held on October 3, 2016.

  
Ronald B. McRae, City Clerk