December 19, 2011

Mayor Dika called the second meeting of the eightieth 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: Alan J. Dika, Alan Hegedus, Michael K. Heinz, Frederick Holdorph and Cecelia Johnston

Absent: None

Also Present: City Manager Thomas C. Richards, City Attorney James T. Ramer, Police Chief Daniel J. Branson, Harbor Commission Chairman, Jim Bartlett, DDA Chairman, Rob Mossburg, and City Clerk Ronald B. McRae

2. City Clerk / Comptroller / Treasurer

A. Approval of Minutes

The following change was requested to be made to the December 5, 2011 meeting minutes:

Page 3, Item 4A, Motion No. 7861 reads, “…develop plans for improvements to enhance and improve the multi-use utilization of that space.” It should read, “…develop plans which encourage a greater variety of uses, users and experiences within that space.”

The following change was requested to be made to the December 12, 2011 special meeting minutes:

Page 1, Item 2B, first paragraph, last sentence reads, “…paying versus their employees…” It should read, “…paying and what their employees…”

#7863 – Motion by Hegedus, second by Johnston, to approve the December 5, 2011 regular and the December 12, 2011 special City Council meeting minutes as amended.

Ayes – 5
Nays – 0

Motion carried.

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:

<table>
<thead>
<tr>
<th>Voucher Number</th>
<th>Description</th>
<th>Fund Name</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>7774</td>
<td>Payroll Ending 12/4/11</td>
<td>General Fund</td>
<td>$35,458.70</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Major St. Fund</td>
<td>227.75</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Local St. Fund</td>
<td>37.90</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Historical Fund</td>
<td>560.88</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Electric Fund</td>
<td>11,530.34</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Water/Sewer Fund</td>
<td>5,433.04</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Waterfront Fund</td>
<td>434.28</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Equipment Fund</td>
<td>1,361.00</td>
</tr>
<tr>
<td>#</td>
<td>Description</td>
<td>Fund</td>
<td>Amount</td>
</tr>
<tr>
<td>---</td>
<td>--------------------------------------------</td>
<td>-----------------------------</td>
<td>--------------</td>
</tr>
<tr>
<td>7775</td>
<td>Sales &amp; Withholding Taxes November 2011</td>
<td>General Fund</td>
<td>$4,273.64</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Electric Fund</td>
<td>11,569.07</td>
</tr>
<tr>
<td>7776</td>
<td>Accounts Payable - Council 12/19/11</td>
<td>General Fund</td>
<td>$28,327.25</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Major St. Fund</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Local St. Fund</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Police Res. Fund</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Historical Fund</td>
<td>13.33</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Electric Fund</td>
<td>80,024.50</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Water &amp; Sewer Fund</td>
<td>78,442.24</td>
</tr>
<tr>
<td></td>
<td></td>
<td>W. T. Water Fund</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Waterfront Fund</td>
<td>10,546.16</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Weather Buoy Fund</td>
<td>0.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Equipment Fund</td>
<td>6,493.53</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Farmers’ Market Fund</td>
<td>0.00</td>
</tr>
</tbody>
</table>

#7864 – Motion by Heinz, second by Holdorph, to approve the bills in the amount of $274,733.61.

Ayes – 5
Nays – 0

Motion carried.

THEREFORE, BE IT RESOLVED that claims on voucher numbers 7774, 7775, and 7776, checked by the Finance Committee, in the amount of $274,733.61 be allowed for payment, and the City Manager and the Mayor are hereby authorized to execute warrants to be drawn on the following funds:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$68,059.59</td>
</tr>
<tr>
<td>Major Streets Fund</td>
<td>227.75</td>
</tr>
<tr>
<td>Local Streets Fund</td>
<td>37.90</td>
</tr>
<tr>
<td>Police Reserve</td>
<td>0.00</td>
</tr>
<tr>
<td>Historical Fund</td>
<td>574.21</td>
</tr>
<tr>
<td>Electric Fund</td>
<td>103,123.91</td>
</tr>
<tr>
<td>Water &amp; Sewer Fund</td>
<td>83,875.28</td>
</tr>
<tr>
<td>West Traverse Water Fund</td>
<td>0.00</td>
</tr>
<tr>
<td>Waterfront Fund</td>
<td>10,980.44</td>
</tr>
<tr>
<td>Weather Buoy Fund</td>
<td>0.00</td>
</tr>
<tr>
<td>Equipment Fund</td>
<td>7,854.53</td>
</tr>
<tr>
<td>Trust Fund</td>
<td>0.00</td>
</tr>
<tr>
<td>Farmers’ Market Fund</td>
<td>0.00</td>
</tr>
</tbody>
</table>

Total  $274,733.61

3. Citizen Comments

None
4. City Manager’s Section

A. Resolution to Amend the 2011 Financial and Spending Plan

City Manager Richards stated that the City Clerk has prepared the “Resolution to Amend the 2011 Fiscal and Spending Plan” based on the first nine months of operations. City Manager Richards stated that the expenses incurred by the City were lower than what was originally anticipated.

#7865 – Motion by Heinz, second by Holdorph, to approve the “Resolution to Amend the 2011 Financial and Spending Plan”, which amends the various budgets for the City’s funds.

Ayes – Holdorph, Johnston, Dika, Hegedus and Heinz
Nays – None

Motion carried.

B. Public Hearing on the Proposed 2012 Financial and Spending Plan (Budget)

Mayor Dika called the Public Hearing to order at 7:10 p.m.

Mayor Dika asked City Manager Richards if he has received any comments on the Proposed 2012 Budget. City Manager Richards stated that the 2012 Budget has been available for public review since City Council received the Proposed 2012 Budget on Monday evening, December 5, 2011. There have been no public comments received.

Mayor Dika asked if anyone present would like to comment on the Proposed 2012 Budget. There were no comments from the public attending the meeting.

Mayor Dika closed the Public Hearing at 7:11 p.m.

C. Consideration of the Resolution to Approve the Proposed 2012 Financial and Spending Plan (Budget)

City Manager Richards stated that the Proposed 2012 Budget was reviewed at the special City Council Meeting on December 12, 2011, available for public review since Tuesday morning, December 6, 2011, and the City received no comments.

Further, City Manager Richards stated the City Clerk has made all of the changes that were required for consideration this evening. After a brief discussion, the following motion was offered:

#7866 – Motion by Holdorph, second by Heinz, to approve the “Resolution to Approve the Proposed 2012 Financial and Spending Plan” which approves the 2012 Budget.

Ayes – Johnston, Dika, Hegedus, Heinz and Holdorph
Nays – None

Motion carried.
D. Consideration of Ordinance No. 381 – Fee in Lieu of Off-Street Parking

City Manager Richards stated that the Planning Commission held a public hearing on the Proposed Ordinance No. 381 which would allow commercial businesses within the Central Business Zoning District (CBD) to purchase parking credits in lieu of providing off-street parking for a fee on December 15, 2011. Further, the Planning Commission voted that evening to recommend City Council approval of Proposed Ordinance No. 381.

Mayor Dika asked if the Planning Commission looked at this Ordinance for the Business One (B-1) and the Business Two (B-2) Zoning Districts. Planning Commission Chairman Walstrom and City Manager Richards both stated that Proposed Ordinance No. 381 affects only the CBD.

Councilperson Hegedus asked if the City would be bound to the criteria and formula for the methodology of setting the “Fees in Lieu of Off-Street Parking”. City Attorney Ramer stated that once Proposed Ordinance No. 381 was adopted, the City would be bound to the criteria and formula in the Ordinance. However, City Council could approve Proposed Ordinance No. 381 as it is, then send it back to the Planning Commission to review the criteria and formula to develop the “Fee in Lieu of Off-Street Parking”.

After further discussion, the following motion was offered:

#7867 – Motion by Heinz, second by Johnston, to approve Ordinance No. 381 which authorizes a “Fee in Lieu of Off-Street Parking”.

Ayes – Dika, Hegedus, Heinz, Holdorph and Johnston
Nays - None

Motion carried.

E. Depot Restaurant – Outside Seating Proposal

City Manager Richards stated that on Thursday evening, December 15, 2011, the Planning Commission voted to approve a site plan presented by the developers. However, there were several conditions attached to the approval. One of those conditions requires City Council approval.

City Manager Richards stated that part of the site plan includes outdoor seating on the public right-of-way on the north side of the proposed Depot Restaurant along Bay Street. The reason for City Council approval is that all outdoor seating within the public right-of-way requires approval of the City Council. Further, City Manager Richards stated that the developers propose to use the south four and a half feet. He noted that there is a loading stoop on the northwest side of the restaurant. The outdoor dining area will not extend beyond the stoop.

Councilperson Hegedus asked if the City should authorize the proposed dining area because of the increased congestion for foot traffic in that area. It would be safer not to impede the sidewalk area. Councilperson Heinz stated that the loading stoop already impedes the sidewalk traffic. Further, the Depot owns the sidewalk to the south side of Bay Street and the proposed dining area is covered by the roof of the Depot. Councilperson Holdorph questioned how the doors on the loading stoop would affect the traffic area of the sidewalk. Dave Kimble, the Architect representing the developers, stated that the doors will not be functional. The loading stoop is being kept to keep the design of the building as it historically was.
After further discussion, the following motion was offered:

#7868 – Motion by Johnston, second by Holdorph, to grant a license to the Depot Restaurant to use the south four and a half (4 ½) feet of the public right-of-way for use of outdoor seating, as presented in the site plan approved by the Planning Commission as approved at their December 15, 2011 meeting for the Special Land Use Permit. Further, said license shall be revoked if the Special Land Use Permit is revoked.

Ayes – 5
Nays – 0
Motion carried.

Councilperson Hegedus questioned who reviews how the Outdoor Seating is being operated. Planning Commission Chairman Walstrom stated that the outdoor seating is reviewed annually by the Planning Commission.

F. Exemption from Public Act 152 of 2011

City Manager Richards stated that City Council reviewed and discussed Public Act 152 of 2011 (the Public Funded Health Care Insurance Act) at the December 12, 2011 Budget Work Session. City Council, by consensus, authorized the City Clerk to prepare a resolution to “Opt Out” of the requirements of Public Act 152 of 2011. City Attorney Ramer reviewed the Resolution which was prepared by the City Clerk and is now being presented for City Council approval.

City Attorney Ramer stated that City Council has to adopt a resolution to exempt itself from Public Act 152 of 2011 each year. Should City Council not approve a resolution to either “Opt Out” completely or “Opt for the 80/20 Split” on healthcare premium costs with a two-thirds (2/3) majority, the City can only pay the amount of the “Hard Caps”.

After a brief discussion, the following motion was offered:

#7869 – Motion by Heinz, second by Hegedus, to approve the “Resolution to Exempt the City of Harbor Springs from Public Act 152 of 2011”.

Ayes – Hegedus, Heinz, Holdorph, Johnston and Dika
Nays – None
Motion carried.

G. Resolution to Approve a Liquor License Recommendation

City Manager Richards stated that he received a request from the Liquor License Control Commission to have the City Council approve the Liquor License request from the developers of the Depot Restaurant for a Class C Resort License.

#7870 – Motion by Holdorph, second by Johnston, to approve the “Resolution to Approve a Recommendation to the State Liquor Control Commission” to be issue to the developers of the Depot Restaurant.

Ayes – 5
Nays – 0
Motion carried.
H. Horse Carriage Rides

City Manager Richards stated that he has received a request to permit horse-drawn carriage rides in the downtown as an attraction for the holiday ski season. The rides are proposed to be fully funded by interested sponsors. There will be no fares charged.

The proposal is to operate the rides on Friday and Sunday afternoons between 2:00 p.m. and 6:00 p.m. beginning Friday, December 23, 2011. The rides will start and end only at established and marked loading zones in the downtown area.

City Manager Richards stated that the following requirements must be met:

a. Buggies used will be fully lighted for safety;
b. The operator will commit to contain all manure from the horses and clean up any that may fall on the street;
c. The rides may be terminated at any time if the City shall rescind its approval for any reason;
d. The rides will operate only on the routes approved by the City Manager and the Police Chief;
e. The operator will provide a liability insurance policy (acceptable to the Harbor Springs City Attorney), which shall remain in force at all times the carriage rides are provided in the City;
f. The operator will attest that the horse teams to be used have no history of erratic behavior or being out of the driver’s control, and have performed without incident on streets and with vehicle traffic; and
g. The operator agrees that he (or another experienced driver covered by the same insurance policy) will be the only persons driving the carriage.

It was the consensus of City Council that City Manager Richards could approve the carriage rides once the conditions above have been met.

5. Manager’s Report

A. Board and Commission Schedule Approval

City Manager Richards stated that City Council received the meeting schedules for City Council, the Planning Commission and the Downtown Development Authority. City Manager Richards stated that the Planning Commission and the Downtown Development Authority have approved their meeting schedules with the condition the City Council concur.

The consensus of City Council was to approve the meeting schedules presented, accept that the January 2, 2012 City Council meeting should be cancelled.

B. Public Notices from the Michigan Department of Natural Resources and Environment

City Manager Richards stated that the City received notice that the Irish Boat Shop is requesting to change their existing marina and conduct dredging activities in the Little Traverse Bay at 400 East Bay Street. The Little Traverse Yacht Club is requesting to renew its existing Marina Lease on the bottom lands across the street from 343 East Bay Street.
6. Boards and Commissions

A. Appointments

Mayor Dika stated that he would like to make the following appointments and reappointments, if there were no City Council objections:

Robert Kieliszewski   Lakeview Cemetery
Linda Rachwitz       Board of Review, Term Ending January 1, 2015
Mary Ellen Hughes    Downtown Development Authority, Term Ending January 1, 2016

There were no City Council objections.

B. Planning Commission (PC)

Mayor Dika stated the next PC meeting is scheduled for 6:00 p.m., Thursday, January 19, 2012 in the City Council Chambers, City Hall, 160 Zoll Street, Harbor Springs, MI 49740.

C. Zoning Board of Appeals (ZBA)

Mayor Dika stated that the next ZBA meeting is scheduled for 5:30 p.m., Wednesday, January 11, 2012 in the City Council Chambers, City Hall, 160 Zoll Street, Harbor Springs, MI 49740.

D. Downtown Development Authority (DDA) Board

Mayor Dika stated that the next DDA Board Meeting is scheduled for 8:00 a.m., Wednesday, December 21, 2011 in the City Council Chambers, City Hall, 160 Zoll Street, Harbor Springs, MI 49740.

E. Next Council Meeting

The next regular City Council meeting is scheduled for 7:00 p.m., Monday, January 16, 2011 in the City Council Chambers.

7. Old and New Business

A. Merry Christmas and Happy New Year Wishes

Councilpersons Johnston and Heinz wished everyone a Merry Christmas and a Happy New Year.

B. The Deer Park

Councilperson Heinz does not want to see the Deer Park gone. His grandchildren and many other young people visit the Deer Park every year. Mayor Dika stated that he concurred with Councilperson Heinz for the same reasons. City Manager Richards briefly discussed the Deer Park and its operations.
8. **Adjournment**

With no further business, Mayor Dika adjourned the meeting at 8:05 p.m.

________________________
Ronald B. McRae, City Clerk

Approved: January 16, 2012

________________________
Alan J. Dika, Mayor