

January 4, 2016

Mayor Pfeifer called the fifth meeting of the eighty-third 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

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, Director of Public Works Lucas VanderZee and City Clerk Ronald B. McRae

2. City Clerk / Comptroller / Treasurer

A. Approval of Minutes

#8308 – Motion by Cupps, second by James, to approve the minutes of the December 14, 2015 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>
8306	WIRE	Sales Tax 11/30/15	General Electric	\$ 4,642.12 9,928.67
8307	WIRE	MPPA 11/18/15	Electric	\$ 21,746.93
8308	WIRE	MPPA 11/27/15	Electric	\$ 24,096.68
8309	WIRE	MPPA 12/3/15	Electric	\$ 24,534.34
8310	WIRE	MPPA 12/10/15	Electric	\$ 25,293.95
8311	WIRE	MPPA 12/17/15	Electric	\$ 35,584.72
8312	Payroll	P.P.E. 12/13/15	General Major St. Local St. Historical Electric	\$ 34,343.34 765.60 586.88 560.88 11,722.09

<u>Voucher Number</u>	<u>To or For</u>	<u>Description</u>	<u>Fund</u>	<u>Amount</u>
			Water & Sewer	5,895.93
			Waterfront	1,614.21
			Equipment	3,777.64
8313	A/P	Payouts 12/1-12/15/15	Trust	\$ 557,516.89
8314	Payroll	P.P.E. 12/27/15	General	\$ 53,656.41
			Major St.	546.52
			Local St.	662.84
			Historical	560.88
			Electric	15,503.84
			Water & Sewer	5,705.29
			Waterfront	904.63
			Equipment	4,212.01
8315	A/P	Council 1/4/16	General	\$ 27,965.03
			Historical	253.06
			Electric	20,122.62
			Water & Sewer	50,651.85
			W.T. Water	5,217.60
			Waterfront	4,375.96
			Equipment	26,456.33

THEREFORE, BE IT RESOLVED that claims on vouchers 8306, 8307, 8308, 8309, 8310, 8311, 8312, 8313, 8314 and 8315 as checked by the Finance Committee, in the amount of \$979,405.50 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	\$ 120,606.90
Major St.	1,312.12
Local St.	1,249.48
Historical	1,374.82
Electric	185,533.84
Water & Sewer	62,253.07
W.T. Water	5,217.60
Waterfront	6,894.80
Equipment	34,445.98
Trust	557,516.89
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Totals	\$ 979,405.50
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#8309 - Motion by James, second by Cupps, to approve the bills in the amount of \$979,405.50.

Ayes – 5  
 Nays – 0

Motion carried.

3. Citizen Comments

Bill Brown, 629 East Main Street, stated that he would like some direction from City Council considering the start up of a not-for-profit trolley system in Harbor Springs. He is looking for the procedure to set up the approval process for the proposed trolley. Brown briefly gave a proposed route and time period for the trolley to make a round with its stops. City Manager Richards stated that he has discussed this proposal with Brown.

City Council Members stated that they liked the concept, but would want to see the details before considering the proposal.

Charlie MacInnis, the area's Emmet County Commissioner, stated that Emmet County has been working on a transportation proposal. Further, Rachel Smolinski, through H.A.R.B.O.R., Inc., has been working on a survey for public transportation and will be making a presentation to the Transportation Committee Wednesday evening, January 6, 2016.

#### 4. City Manager's Section

##### A. Discussion on the Question of the Deer Park

City Manager Richards stated that he views the alternatives for the Deer Park are:

- Maintain a "living" Deer Park;
- Maintain a "dying" Deer Park; and,
- Close down the Deer Park.

City Manager Richards reviewed his terms "living" and "dying". City Manager Richards also stated that he has been working with City Attorney Ramer on whether or not City Council can hold an "Advisory Vote" on this issue. In City Attorney Ramer's opinion, the City Charter does not permit an "Advisory Vote". Should an initiatory petition be circulated, the action proposed would have to be legislative, not administrative. At the direction of the City Manager, City Attorney Ramer drafted the proposed ballot language and an initiatory petition which could be used.

City Attorney Ramer stated that he believed that City Council should approve the continued operation of the Deer Park. If "someone" or a "group of people" wanted to stop the Deer Park's maintenance and operation, the petition should be circulated by them to get the question on the ballot. Further, for maximum voter response he suggested that the question would be on the ballot on the November 2016 General Election.

Councilperson James read comments he prepared concerning the Deer Park. Councilperson Dika asked if the City Council could initiate the ballot question. City Attorney Ramer stated that he would have to research the question. Councilpersons Cupps and Bugera both agreed with having the issue researched and, if possible, presenting the ballot question in November for the consideration of the electorate.

Mayor Pfeifer stated that if someone in attendance would like to comment, they would have two minutes to discuss their views. Mayor Pfeifer also stated that this was a time for comment, not questions. City Manager Richards put the clock on the screen for everyone to view.

Chip Ironside, 549 Harrison Street, stated politely he would prefer the Deer Park be closed because he has a number of deer in his yard and can see them almost daily.

Melissa Harrison, 3209 Meadowlands Trail, asked several questions, but did not express any views.

Bill Brown asked if the language proposed for the ballot question would also include the prohibiting of private citizens from owning "wild" animals. No opinion was given.

Mary Thompson, 917 Traverse Street, stated that she has lived in Harbor Springs her whole life and is in favor of keeping the Deer Park and reminisced about her experiences in visiting the Deer Park with her father and mother, her children and now her grandchildren.

Suzanne Fowler, 555 Elm Street, enjoys the Deer Park and stated that the City has several icons – and the Deer Park is one of them.

Maddie Heinz, 545 East Lake Street, wants to keep the Deer Park.

John C. Cupps Jr., 631 East Lake Street, asked if the operation of the Deer Park could be turned over to a private not-for-profit organization.

T. M. Fletcher-Rice, 605 East Main Street, does not want the Deer Park closed.

Beverly Wemigwase, 803 Harrison Street, related how she took her children to the Deer Park. Now she takes her grandchildren to the Deer Park. Her grandchildren even named the Deer in the Deer Park. The last time she took them to the Deer Park, the one deer was missing and she found out that the City swapped deer with Storm's End. Due to the fact that the City completely swaps out the entire deer herd, she thinks that that is bad management and the City should close the Deer Park.

Cynthia Shafer, 348 Glenn Drive, is not in favor of keeping the Deer Park because she believes that the deer are being unfairly chased at the enclosures set up for hunting.

Lonny Thompson, 917 Traverse Street, is in favor of keeping the Deer Park.

Tracy Dulak, 5008 Welsheimer Road, stated she is a Veterinarian at Bay Pines and believes that wild animals should stay in the wild. She is in favor of eliminating the Deer Park.

Judy Brock, 1185 Hideaway Valley, appreciates the stewardship of the Deer Park in the past, but believes that it is still time to close the Deer Park due to current stewardship issues. Brock read a definition of "Stewardship". She also had her husband give the City Council more signatures in favor of closing the park. She asked that the record should show that she has provided 529 signatures as of Monday evening, January 4, 2016.

Mark Rondel, 598 East Main Street, stated he was in favor of keeping the Deer Park.

Mary Lou Dawson, 7765 Hoyt Road, stated that the issue of closing the Deer Park should be put to a vote for all individuals who have a vested interest in the City. The vested interest could be ownership of property in town, doing business in town, being a resident in town or being a life long resident.

After the last comment, Mayor Pfeifer closed the public comments. No further action was taken.

#### B. Consideration of the Purchase of a "Trailerred" Air Compressor

City Manager Richards stated that the City's 1971 air compressor has become unreliable. During the budget process, a purchase of an air compressor was budgeted for \$19,000. City Manager Richards stated that quotes were received from four vendors for the following amounts:

Cloverdale Equipment	\$18,950 plus warranty
Illinois Truck and Equipment	\$19,750 with no warranty
Aspen Equipment Co.	\$20,000 with no warranty
Diesel Machinery	\$26,500 with no warranty

City Manager Richards stated that Staff recommends purchasing the Air Compressor from Cloverdale Equipment Co. in the amount of \$18,950, the low bid, which includes a warranty.

#8310 – Motion by Cupps, second by James, to authorize the City Manager to purchase the air compressor unit from Cloverdale Equipment Co. for the low quote price of \$18,950, which includes a warranty.

Ayes – 5  
Nays – 0

Motion carried.

C. Consideration of Investment Approval with the Bank of Birmingham

City Manager Richards stated that the City Clerk has requested to open an investment account with the Bank of Birmingham. The City Clerk's memorandum discusses the reasons for this request. Further, should the Bank of Birmingham become as competitive as the Bank of Michigan, the effect for the City would be significant increases in interest earnings.

City Clerk McRae addressed the concerns of the City Council Members. After the discussion, the following motion was offered:

#8311 – Motion by James, second by Dika, to approve the "Resolution to Open an Investment Account with the Bank of Birmingham", which would authorize the City Clerk / Comptroller / Treasurer to invest some of the City's cash reserves according to the City's investment policy.

Ayes – 5  
Nays – 0

Motion carried.

D. Consideration of Going to Closed Session

City Manager Richards stated that he believes that the City Council should go to Closed Session to review the negotiation strategy on the International Brotherhood of Electrical Workers (the "IBEW") tentative agreement and to discuss legal strategy on the lawsuit filed against the governor of the State of Michigan by the Little Traverse Bay Band of Odawa Indians (the "LTBB").

City Attorney Ramer stated that a motion is needed to go to Closed Session under Sections 8 C and E of the Open Meetings Act of 1976.

#8312 – Motion by James, second by Cupps, to go to "Closed Session" under Sections 8 C and E of Public Act 267 (the "Open Meetings Act") of 1976, as amended. The purpose of going to Closed Session under Section 8C is to review bargaining unit negotiation strategy with the IBEW. The purpose of going to Closed Session under Section 8E is to review with the City Attorney the legal strategy relative to the lawsuit filed by the LTBB against the State of Michigan (Governor Snyder) to claim a large area of Emmet and Charlevoix Counties as reservation lands.

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

Motion carried.

Mayor Pfeifer adjourned from Open Session to go to Closed Session at 7:55 p.m.

Mayor Pfeifer called the Open Session back to order at 8:26 p.m.

E. Consideration of the Tentative IBEW Contract

City Manager Richards stated that the proposed IBEW Contract has been ratified by the IBEW membership. If City Council concurs with the ratification, the new pay rates and conditions will be in place as of January 1, 2016, except perhaps the change in the dental benefits. They will be in place by February 1, 2016.

#8313 – Motion by James, second by Cupps, to approve the proposed Bargaining Unit Contract with the IBEW and to authorize the City Manager and the City Clerk to execute said agreement.

Ayes – 5  
Nays – 0

Motion carried.

F. Consideration of a “Resolution to Intervene in the Lawsuit Defense of the LTBB Filing”

#8314 – Motion by Cupps, second by James, to approve the “Resolution to Intervene in the Lawsuit Filed against the State of Michigan by the LTBB”, which authorizes the City Manager and the City Attorney to enter into legal representation agreements with other affected Cities and Counties to protect the City’s interests. The cost of this expense was estimated at \$15,000.

Ayes – 5  
Nays – 0

Motion carried.

G. Consideration of a “Resolution to Change the Employee Contribution to MERS”

City Manager Richards stated that the City has received the Actuarial Report from the Municipal Employees’ Retirees System of Michigan (“MERS”) which required the City to increase its contribution rates. As part of the Bargaining Unit Contract with the IBEW, the Employer’s share will increase 0.5%, effective January 1, 2016. The employees’ contribution will increase from 6.85% of gross payroll to 7.36% of gross payroll.

City Manager Richards stated that the “Resolution to Change the Employee Contribution to MERS” (the “Resolution”) should be approved as soon as possible. Further, his goal was that the Police Bargaining Unit, the Fraternal Order of Police Labor Council (the “FOP”) would agree to approve this same provision in their agreement.

#8315 – Motion by James, second by Bugera, to approve the “Resolution to Change the Employee Contribution to MERS”, which changes the employee contribution to 7.36% of gross wages, recognizing the employer’s contribution increasing from 10% to 10.5% on gross wages subject to MERS paid on or after January 1, 2016.

Ayes – 5  
Nays – 0

Motion carried.

5. City Manager's Report

A. Storm Damage and Overtime

City Manager Richards stated that the weather, high winds on Christmas Eve Day, caused overtime for cleanup on December 24, 2015 and a snow storm on New Year's Eve Day and New Year's Day brought the plow trucks out.

B. City Manager Vacation

City Manager Richards stated that he enjoyed his vacation over the Holidays. He spent the time with his family in San Antonio and got to know his grandson better.

C. Upcoming Board and Commission Meetings

City Manager Richards stated that the City's Boards and Commissions will be meeting, as follows:

- DDA / PSD Board will meet at 8:00 a.m., Thursday, January 7, 2016; and,
- The Zoning Board of Appeals will meet at 5:30 p.m., Wednesday, January 13, 2016; and,
- The Planning Commission will meet at 6:00 p.m., Thursday, January 21, 2016;

All of the meetings will be held in the City Council Chambers, City Hall, 160 Zoll Street, Harbor Springs, MI 49740, unless otherwise noted.

D. Electric Department Report

City manager Richards stated that the Electric Department Report was enclosed in the Board Packets.

6. Appointments

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

7. City Council New and Old Business

A. Dumpster Removed

Councilperson Cupps stated that sidewalk and parking lane have been cleaned up with the removal of the dumpster at the new Lyric Theater building.

8. Adjournment

With no further business, Mayor Pfeifer adjourned the meeting at 8:31 p.m.

  
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Ronald B. McRae, City Clerk

Approved: January 18, 2016

  
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Pringle Pfeifer, Mayor

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

January 4, 2016

**WHEREAS**, the City Council has determined that the City of Harbor Springs has a substantial legal interest in the case of: *Little Traverse Bay Bands of Odawa Indians v Rick Snyder, Governor*, United States District Court File No. 15-850 (the "Litigation"); and,

**WHEREAS**, the City Council has determined that the interests of the residents of the City of Harbor Springs could be impaired in the absence of intervention in the Litigation because the interests of the City of Harbor Springs in the Litigation may not be adequately represented; and,

**WHEREAS**, neither the Little Traverse Bands of Odawa Indians nor the Governor would suffer undue prejudice from the intervention in the Litigation by the City since the City of Harbor Springs shares many of the same interests as the State of Michigan, and the Court has expressly permitted the filing of a Motion to Intervene by the City of Harbor Springs; and,

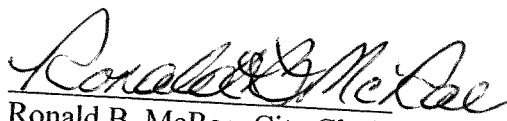
**WHEREAS**, the City Manager and City Attorney have been working with officials of other units of government within the geographic area claimed by the Little Traverse Bay Bands of Odawa Indians in the Litigation as "reservation land" to jointly engage legal counsel and to share the costs of intervention in the Litigation; and,

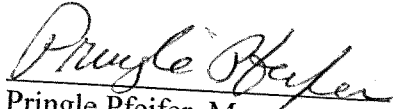
**WHEREAS**, the City Manager and City Attorney have recommended to the City Council that joining with the City of Petoskey and the County of Emmet, and other such units of government who could be adversely affected by the Litigation to intervene in the lawsuit, and entering into joint defense arrangements would be appropriate and beneficial to the City of Harbor Springs; and,

**WHEREAS**, documents to formally share in the costs of the litigation and to retain the law firm of Plunkett Cooney to represent the consortium of intervening units of government are being negotiated; and,

**WHEREAS**, the Court in the Litigation has set a deadline of January 29, 2016, for the City of Harbor Springs to file a Motion to Intervene in the Litigation and the Council desires to act on this matter on this date to give as much time as possible to prepare adequate agreements and pleadings, prior to the deadline.

of gross payroll, effective on all payroll checks issued on or after January 1, 2016.

  
Ronald B. McRae, City Clerk

  
Pringle Pfeifer, Mayor