

CITY OF CHARLEVOIX
REGULAR CITY COUNCIL MEETING MINUTES
Monday, August 3, 2015 – 7:00 p.m.
210 State Street, City Hall, Council Chambers, Charlevoix, MI

The meeting was called to order at 7:00 p.m. by Mayor Gabe Campbell.

I. Pledge of Allegiance

II. Roll Call of Members Present

Mayor: Gabe Campbell
City Manager: Mark Heydlauff
City Attorney: Scott Howard
City Clerk: Joyce Golding
Members Present: Councilmembers Shane Cole, Shirley Gibson, Luther Kurtz, Leon Perron, Jeff Porter, Bill Supernaw
Absent: None

III. Inquiry Regarding Possible Conflicts of Interest

Councilmember Kurtz indicated that he had a conflict of interest on the skydiving agenda item.

Mayor Campbell stated that the meeting will be run under "Robert's Rules of Order", meaning that there will be no clapping, no cheering, no booing, and no talking while the meeting is going on, and he read the following:

Speakers must address their remarks to the Chair (mayor), maintain a courteous tone, and should avoid injecting a personal note into debate. ...they must never attack or make any allusion to the motives of members. The word "members" shall be deemed to include Council, Mayor, City Staff and all other speakers. The Chair may limit public input to three minutes...

IV. Consent Agenda

The following items were approved and filed:

- A. Approval of Minutes – July 6, 2015 Regular Meeting Minutes
- B. Approval of Minutes – July 20, 2015 Regular Meeting Minutes
- C. Special Accounts Payable Check Register – July 22, 2015
- D. Regular Accounts Payable Check Register – August 4, 2015
- E. ACH Payments – July 20, 2015 – July 31, 2015
- F. Tax Disbursement – August 4, 2015
- G. Payroll Check Register – July 31, 2015
- H. Payroll Transmittal – July 31, 2015
- I. Certificate of Appreciation Robert Heath

Mayor Campbell presented Robert Heath with a certificate of appreciation for his service on the Historic District Study Committee and Historic District Commission.

V. Public Hearings

None.

VI. Reports

City Manager Heydlauff stated that it is his privilege to be in Charlevoix and thanked everyone for his warm welcome. He requested feedback from Council regarding his manager's report and the agenda packet in order to create the most meaningful information for Council's review.

He encouraged Council to attend the upcoming Michigan Municipal League convention in Traverse City.

City Manager Heydlauff stated that he has begun City department tours and introductions and invited Council to introduce him to groups or individuals that Council feels he should meet. He would like to learn about people or places in the area that are important to Council.

An upgrade to water services is scheduled for August 11th in the parking lot behind City Hall. Downtown business will be kept informed.

City Manager Heydlauff extended thanks for a job well done to the DPW crew during Venetian and to those City Staff that were also involved in the festival.

VII. Requests, Petitions and Communications and Actions Thereon

- A. Discussion on Skydive Harbor Springs Operation at the Charlevoix Municipal Airport
Councilmember Kurtz stepped down from the dais.

The following is a verbatim transcript of this agenda item, per Mayor Campbell's request.

Mayor Campbell: "Mike, you gonna."

City Planner Spencer: "Thank you, Mr. Mayor and Council. First off let me state that I wrote this when I was on vacation in the UP last week so I apologize in advance if it's not as complete as it normally would be. One of the things I mentioned was my discussion with the FAA which included Liz, myself, Marlon Pena, and the other gentleman that we spoke with I did not put in the packet was Paul Lowe. He is the Compliance Specialist with the FAA, I believe based out of Chicago. So as you are aware, there's 22 attachments in your packet, so there's a lot of information in there which we apologize for but, at this point obviously as Staff, our job is to get you the facts so that you can make an informed decision, and so, at this point I think we had planned on Scott Howard taking over to answer your legal questions on record and he's not here yet so you could potentially ask me or Liz any questions if you have any, or ask questions of Luther or you could start taking public comments and we can hear from Scott when he gets here to move the meeting along. That's up to you Mayor. With that I'd wrap it up and be happy to answer questions from Council."

Campbell: "Has anybody contacted Scott for?"

City Manager Heydlauff: "Mr. Mayor, I spoke with Mr. Howard earlier today. He was planning to be here. I know he was headed up from Traverse City so definitely he had a stop earlier this evening. I don't know if he got caught in some weather or something down there but I know he was planning to be here at 7:00, so I. The fact that he's not here I assume he will be here shortly and hope that he will be prompt. I was expecting him to be here."

Councilman Porter: "Mr. Mayor, maybe could we go to the rest of the agenda and then."

Campbell: "Yep, there he is. I'm not going to say no."

Heydlauff: "You must have heard us talking. He was probably looking for a parking space."

City Attorney Howard: "If anyone is wondering there still are trees down in Traverse City."

Councilman Supernaw: "Lots of them, right?"

Howard: "I apologize."

Spencer: "You need a minute to get oriented? I was just briefing Council on what the contents of the packet were and we were gonna turn it over to you to talk about some of the legal questions that came up and just so the audience is aware as well, we asked Council to submit any questions they had whether they be related to insurance or legal matters. Asked them to submit that to us as Staff so we could forward it on to the insurance carrier and also Scott for his legal review. The insurance carrier is not here tonight, but did respond to the questions via email. We did not get that until today and so as soon as we got that it was printed and I believe emailed to you and also delivered to your homes so again we apologize for the late date but we can't really control when people respond to us or whether or not they show up. Uhm, I'm not confident at this point that the insurance people are going to show up at any future meetings based on what's happened so far. So with that I'll turn it back to Council and if Scott's ready to cover the legal issues."

Howard: "I'm ready."

Campbell: "Who wants to start? Jeff, you want to start? You have questions for?"

Porter: "No, not at this time."

Campbell: "Okay. Well shall we go through (unintelligible)?"

Supernaw: "Mayor, can I ask a question?"

Campbell: "Sure."

Supernaw: "Scott, have you reviewed all the material that we have?"

Howard: "I have."

Supernaw: "Do you have any inclination to this whole thing being taken out of our hands? FAA seems to have control of this issue. And from what I've heard, I've heard from so many people, I haven't talked to anybody on the Council purposely but, I've talked to a lot of my constituents. I have a recorded message from one that wanted to be here tonight, I don't know if it would be appropriate to play it later on or not, Mr. Mayor, but he's my Councilman, or he's my constituent, in the 2nd Ward. He's knowledgeable and he said can you say what I just told you, and I said no you stated it very accurately, but anyway, are we spinning our wheels here, Mr. Attorney because this is an issue that we don't have direct control over?"

Howard: "I wouldn't say that you are spinning your wheels but, I will say that you are constrained by what the federal government is going to allow you to do. The framework with which you need to look at these issues is that because the airport receives federal

monies there are certain federal regulations and guidelines that the City and the airport needs to comply with. One of which is you are essentially required to allow certain aviation activities to happen at an airport unless you can show that there is, in essence, a substantial safety hazard as a result of those activities. So the FAA sort of does tell you that you have to allow certain things unless you can prove to the FAA that they shouldn't be happening. And in order to do that you're going to have to build a substantial case. The FAA is pretty clear in its documentation that you can't just come and say we're concerned about safety. It needs to be more than that. There needs to be some additional study and analysis, what exactly is the safety concern, and what is the problem and what's the, what is sort of the least restrictive way in which you can address that problem. So that's the framework that you're working under. It takes some discretion from you but it still leaves you with the ability to evaluate whether or not there is a true safety concern and if so, then go to the FAA to suggest potential regulations to address that concern. The sort of I guess, cut to chase bottom line for you guys, is that in no way would I recommend that you vote at this meeting to say we're banning skydiving at the Charlevoix Airport because I am certain that the FAA would overturn that decision. But you are able to look into these issues and evaluate whether or not there are safety concerns and work with your Airport Advisory Commission to determine what regulations ought to be in place to make sure that we're doing this as safely as possible."

Supernaw: "You feel a lengthy discussion tonight will have any value?"

Howard: "It would keep me from going home sooner, so no. I kid, I'm sorry. I think that these are important topics and I think that it is important for our Council to vet these topics. That said, I think that you should do that as efficiently as possible and my, I have a few items that were, that I think that we need to do some housekeeping in terms of the way that we're dealing with licenses at the airport and what that documentation looks like, those items ought to be addressed. You can, and I think you have, an actual body that can help you evaluate what the safety concerns are and what the appropriate remedies are. That's probably your Airport Advisory Committee and through that body you can have sort of a fact finding discussion about that and see if there are any proposed regulations that come from that and then have an educated discussion at this level. I'm happy to stay, I'm happy to stay as late as you want and I'm happy to discuss as much as you want here. I think it's important that Council feel informed and feel like they have their questions answered and we shouldn't leave tonight until those questions are answered. But you may very well want to send some of these issues back to the Airport Advisory Committee and say 'give us some more feedback and input.' Are there date or time restrictions, for example, that we should evaluate as part of skydiving operations and how that works with commercial aircraft? Maybe there are, maybe there aren't. I'm not sure. I'm not an aviation expert but, those are the type of things that you might want to evaluate and if there are important safety concerns that folks have, let's make sure that the Airport Advisory Committee fully vets those and determines sort of what the answer to those questions are to the best of their ability and give some feedback back to this body."

Campbell: "That's good."

Supernaw: "I think you said that, that maybe do some housekeeping in the way licensing is handled at the airport. What do you mean by that?"

Howard: "One specific example, your Code of Ordinances requires an indemnity agreement be signed by each licensee for airport uses. I talked to Linda earlier today and she was not able to find any indemnification agreements signed by any of the licensees at the airport. That's something that's part of your Code of Ordinances and we need to address that. That's something that I think is more in the nature of housekeeping than it is substantive discussion about what activities you're going to allow at the airport, but that's something that's important that we address that we're conforming with our Code of Ordinances."

Campbell: "You think that the Committee would be the proper way to send it them for minimal requirements for all tenants?"

Howard: "It's ultimately up to this Council, but I think that that would be a logical starting point. They're the folks that deal with the airport all the time so let's get their input first and then vet it through this Council rather than the other way around, I think. My opinion is that would be most efficient, not necessarily a legal opinion, but I just think that would be an effective way to approach this."

Supernaw: "You mean there's people operating at the airport that don't have insurance stuff and things like that?"

Howard: "My understanding that this isn't an insurance issue, that this - there's two requirements under the Code of Ordinances, one is that you have appropriate insurance and two is that you agree to indemnify the City. And that agreement is a statement in effect, that you're going to defend and pay any costs that arise out of your operations at the airport, if that ever comes to pass, and there's any liability assessed at the City. So we want to make sure that that agreement is in place. I think that it would make the most sense to have that built in as part of the license that's issued to the person applying for the license and the City signs it and they sign it and as part of that they promise to indemnify the City."

Supernaw: "Some of that stuff isn't on record now?"

Howard: "As far as we know it's not on record now. That's different than insurance, and my understanding that insurance issues have been taken care of. So there is insurance in place, so now we can talk about the type and character of that insurance a little bit more because that was one of our list of questions but that is, insurance is in place but, just not the indemnity."

Supernaw: "Thank you."

Howard: "The other thought on how we might proceed with this discussion is to go through the sort of bulleted questions that we received just so that we're making sure that we're addressing at least some of the issues in writing and that may spur a little bit of discussion. And as I said, I think there are some important housekeeping items that I'd like to work with Staff to address and there may be some additional issues that this Council wants either Staff or myself to consider or the Airport Advisory Committee to take a look at and give them some feedback. So Mr. Mayor my suggestion would be to just go through the bullet points relatively quickly and at least try and provide an answer to all the."

Campbell: "That makes sense."

Howard: "So, 'Can the City require all tenants to have liability insurance?' And 'Can waivers be set aside for any person?' And let me just read you what our insurance agent said and that is, his answer was 'Yes – Usually this is governed by the minimum standards document. The insured has the right to waive subrogation; however the City Legal counsel should determine the legality based on the venue.' I think that answer may raise more questions than it answers, but let me address that really quickly. I agree that the City can and should require all tenants to have insurance and it does and that's part of your airport standards and that's a, that's sort of an absolute requirement. There isn't a provision in the Code of Ordinances or the Airport requirements that says that somebody can petition the City for a waiver of that and I think that's what the question was getting at. That can Council say 'forget it you don't need insurance'. The answer's no unless you're going to change your Code of Ordinances and your Airport regulations."

Campbell: "Does that include the liability from the jump plane to the ground because I heard that the FAA says that you can't enforce that because it's not attainable?"

Howard: "That's correct, that I think that's an important point of discussion. What can that insurance requirement cover? You can require, the FAA will allow you to require, any insurance that is sort of reasonably attainable. Now my understanding is that there is this issue of the person actually jumping out of the plane and whether or not they're covered under that insurance policy and the FAA has in another context said it would be unreasonable and unattainable for you to require insurance requirements that you just can't get. The market place doesn't provide you with and so therefore in enacting that requirement would be akin to prohibiting the activity and therefore you can't do that. So the short answer to your question is we couldn't require somebody to cover the jumper. Everything else is covered and everybody else is covered by their insurance. Now an important distinction though, that I want to highlight is and I talked to our insurance agent about this. That's different than the insurance policy that the City has on the airport. The City's policy on the airport does in fact cover if something happened to the jumper and the City was sued. The City would be defended in that lawsuit under our insurance coverage that we have now. I haven't looked at the full detailed policy, but according to the representations of the agent, the City is covered and the way that that's expressed later on and in the sort of answers to the questions that the agent provided was there's no exception for skydiving in the City's policy. So there's an important distinction between the insurance the City has for itself to cover all activities at the airport and the insurance that the actual skydiving operation gathers and then provides a certificate of insurance for. The last item that I'll mention on that is the City has the ability to govern within reason, what those policy requirements are and what the policy amounts are. I understand that, I think that what's being provided in this case is at least customary, if not more insurance than what you might see or folks see elsewhere but, there is ability to say, for the City to say, what the insurance amount is going to be. One problem or one housekeeping issue that we need to address is that there's clear reference in the airport policy and the Code of Ordinances to a schedule of insurances and as far as we can tell that schedule doesn't exist. So I think the idea was we would require insurance and then have a separate document that would say for this type of activity you need this much insurance and/or this type if you're putting a new storm sewer in, you'd need this much insurance. So that you'd have a singular document that could be revised easily by Council as policy requirements increased but that never, as far as we know, never made it into existence and that's one of those important housekeeping items we need to address. What exactly are the policy limits that we want to see?"

Campbell: "Well I was kinda of confused because the FAA said that you can't force somebody to get something that's not available. That made me think that there's no policies out there, but then on the internet it showed three different companies that do have liability, so I."

Howard: "Liability coverage for the jumper?"

Campbell: "Yeah."

Howard: "All I know is what our insurance representative, our insurance agent, told us through this process. I haven't evaluated what's out there in the market and I'm kind of relying on his expertise in the field. If there is, if we're wrong about this assumption that a jumper is usually never covered under an insurance policy, we can re-visit that question, but we probably, if you have, if you have some information, we ought to take that back to our agent and ask him about that."

Campbell: "That was, Trusted Choice and Jump Cover from Las Vegas and another Adventure Sports, they said that they, I don't know anything about that, maybe, anyhow they said that they would cover you against injury and that, maybe that's a question that should go to the Committee and."

Howard: "Staff or I would be happy to follow up with our agent and ask him about those policies to make sure that we're comparing apples to apples. In other words, when they are saying liability coverage, all of these folks say we do liability coverage, it's just that the liability covers everybody but the jumper. So we just want to make sure we're talking apples to apples here. I wrote down the name of the three and I think we can follow up with that as part of the process, if Council so desires."

Campbell: "Okay. Thank you."

Supernaw: "Scott, I think one of the questions, we seem to be concerned about is the jumper once he leaves the plane before he hits the ground. If there's a liability on the part of the City, is it a simple yes or no because once he's out of that plane is he on his own insurance or maybe as simple as his homeowner's insurance like falling down the stairs, or falling out of an airplane?"

Howard: "Let me describe it this way. You have layers of insurance that you're dealing with and the first layer of insurance that we, that I was referring to earlier, was the City's policy for everything that happens at the airport. And that policy is the one that includes injuries to somebody who would jump out of a plane and make a claim against the City, so you would be defended by the City's policy in that circumstance. If somebody's claiming the City was negligent and I don't know it's landing zone or marking it's landing zone or whatever it would be, that they would claim some sort of liability on the City's part. The second layer of coverage is the coverage that the skydiving company provides and the City's added as what's called an additional insured. That means the City can make a claim under that policy as well and under that policy that's where we talk about the limits of the policy excluding the jumper covering everybody else. So you'd have this, you'd theoretically, you could have this scenario where somebody jumps, they get hurt and they sue the City. They're not covered by the skydiving company's policy, but they would be, that claim would be covered under the City's policy. So you do have coverage, at least defense coverage for that claim."

Supernaw: "It says in here more than once, it says the City's underwriter, Ace Group, is that the name of it? Is that the group that would respond to a claim in the event of a loss? That means they're on our side."

Howard: "Yes."

Supernaw: "Thank you."

Porter: "Mr. Howard?"

Howard: "Yes."

Porter: "I mean one of my concerns is that the coverage is like five million dollars. If this would involve for example, maybe one of these corporate jets, cost of maybe 40 million dollars, not including the pilots and passengers, where do we stand then?"

Howard: "There's a couple of issues there. Number one ultimately, what you need to evaluate is what's the City's liability. So under that if we're assuming that for some reason the City was held liable for that 40 million dollar jet or there was a 40 million dollar award, we'd look at what are the policy limits the City has under its airport policy. And I don't know that off the top of my head or whatever those policy limits are that would essentially cover a portion of any claim. And then in addition that second layer of insurance would also cover that potential damage award. If those added up to 15 million you still have an excess liability that the City in theory would be liable for. And we're assuming that there's a 40 million dollar judgment against the City. Now before you get to the 40 million dollar judgment, what we really need to talk about a little bit is what's the potential risk, or likelihood of risk, that the City's actually adjudged liable for 40 million dollars. And there's some additional things we need to talk about in terms of governmental immunity. So is it possible that the City could get hit for a 40 million dollar judgment? Absolutely. But is it likely? I think it's likely that would not happen based on some of the defenses the City has. But us lawyers can always think of hypotheticals where you would potentially end up with liability which is part of the reason why you have insurance to at least cover those costs of defense. So we can, one of the things we again, looping back to the idea of having the Airport Advisory Committee talk a little bit about this is, a talk about what are customary and appropriate insurance limits. And insurance companies and carriers do surveys of this stuff all the time. And what is within reason for a company to carry and with the understanding that if we ask for too much the FAA may say you're making it essentially unreasonable for them to operate or asking for an unreasonable amount. So we must be at least cognizant of that and what the sort of norms are within the industry."

Councilmember Kurtz: "Mr. Mayor, could I ask a question?"

Campbell: "Go ahead."

Kurtz: "Mr. Howard is there any difference between what would happen if two planes collided say or any other jet crashed and the City was found liable where that company also had a policy that was one to two million and the City's policy was five million. Is that any different than the situation where a parachute would perhaps collide with a, once you get past five million is my question? Which is what Councilman Porter was asking."

Howard: "You know the idea would apply no matter what. You take a look at whatever your ultimate judgment is, your ultimate liability is and compare it to the amount of insurance you have for whatever the activity is. So we could be talking about two dump trucks colliding too. We would do that same analysis. This isn't unique to skydiving. It's an analysis that municipalities and individuals do all the time about what risk there is out there and what level of insurance should you carry in order to protect yourself against that risk."

Kurtz: "So under the scenario he was talking about, any other aviation activity could create the same risk?"

Howard: "I don't know about the same risk, but what we're talking about is the hypothetical liability. Could you have hypothetical liability for other aviation accidents? Sure. Absolutely."

Kurtz: "Past five million?"

Howard: "We're not evaluating what the, I'm not speaking to what the potential risk of accidents are, planes crashing or parachutists hurting themselves. I'm not the person to talk to. There's folks that do those sort of studies and we can dig into that if necessary, but what we're really, all we're trying to address is how do you, what do you calculate your liability is versus your maximum insurance coverage. That's the same as you would do in any situation, whether skydiving, planes or dump trucks."

Kurtz: "Thank you."

Campbell: "On the assumption of risk on, I noticed that the skydiving says '*I understand and acknowledge that parachuting activities are inherently dangerous and expressly and voluntarily assume all risk of death or personal injury sustained while participating in parachuting activities*'. Is that something that the airlines usually put down or is that just for skydiving? I'm not really sure when they are talking about some liabilities, the risk."

Howard: "An assumption of risk and waiver is a, is something that you would frequently see and expect to see in certain, what are thought to be high risk activities, skydiving, scuba diving. Whenever I enter a mountain bike race I sign my life away just like that, saying that mountain biking can be a hazardous and dangerous sport and I can die from it. So that is something that we would expect to see in an activity that's classified as quote-unquote high risk. You wouldn't, you don't sign that same sort of waiver and assumption for getting on a plane for example or getting in a car. And folks can debate the relative risks of what you're taking when you hop in the car or hop in a plane, but those aren't considered high risk activities and so you don't normally see the same type of waiver."

Campbell: "Thank you."

Supernaw: "Mr. Mayor, Councilman Porter had a follow-up five minutes ago."

Porter: "And I, in the meeting on July 20th we were told by Mr. Kurtz that there'd been no accidents between skydivers and airplanes. Well, I mean I looked online and within like 30 seconds found at least four examples of that. I did on page 118 of our, 118 of our packet. I had Linda include this article from the New York Times with a headline that 'Four Die After Plane Collides With a Skydiver'. And the skydiving operator, this is a direct quotation, '*The odds against this happening are absolutely astronomical said David Strickland, owner of the Airport's skydiving operation.*' What we're talking about is the potential of some kind of catastrophic event between an uninsured skydiver and some kind of aircraft."

Kurtz: "Insured by the City insurance."

Howard: "Just to be clear about that, there may have been some confusion. The City's insurance covers liabilities that are incurred by the City, so, or a defense of a claim against the City. If for example, somebody was hurt and sued Luther's company or any other, let's talk about XYZ Skydiving Company, any skydiving company, the City's insurance would not cover those injuries or the defense of those injuries or defense of those claims. Only when the City's involved, that the City's insurance is invoked. Now that said, I think that the primary concern of Council is as appropriate and should be what's the potential liability for the City and this body. So I just want to be clear about that the City is covered. It would not cover other sort of claims based on that person who jumped or the person's family if the City were involved in a lawsuit. And I do want to, importantly circle back to, one concept that I think is at play here as we talk about City liability. There is, there is governmental immunity. The City is protected by the concept of governmental immunity which in essence means that the City's not liable for torts unless there is, under a certain limited exceptions to that rule or there is gross negligence, which is akin to sort of wanton and willful misconduct. So the City has a, importantly has a heightened level of protection under governmental immunity. Now there's a lot of different exceptions and lawyers fight about those exceptions all the time, but those exceptions have been litigated in the context of municipal airports in Michigan and the courts have held that governmental immunity does apply to municipal airports for injuries that are occasioned at a municipal airport. So you would have the protection of governmental immunity here and that creates a very high bar for the City's, somebody to prove that the City's actually liable for damages. There's no Michigan case, no Michigan case that I found addressing municipal airports and skydiving in any context. There is one case out of Illinois that I found where a municipal airport was sued as a result of a skydiving accident and there the court held that governmental immunity applied and those claims were barred against the municipal airport. So you do have, I want to be important, or I want to point out something that is important. That is before we get to some

hypothetical damage amount, somebody would have to prove that the City was grossly negligent, in which case if they were able to do that, the insurance coverage would cover up to the amount of the policy limits.”

Kurtz: “Mr. Mayor, can I address Councilman Porter’s comment?”

Campbell: “Well I think.”

Kurtz: “Councilman Porter made an accusation and I’d just like to address it.”

Campbell: “What was the accusation?”

Kurtz: “For one he said that I said that there’s never been an accident between a parachute and an airplane and I don’t remember saying that. And I’m looking at the record here on page 6 and I recall being asked if I’ve ever had an accident in one of my operations in which I said ‘no.’ I don’t recall responding to the question that he said. And another thing since I thought you might bring that up, I brought you guys the NTSB report from that incident so, if you don’t mind as I hand these out, there you go. So it’s important to note a couple things. First the parachuter and the airplane collided at about 5,700 feet. So you’ve proposed moving of my operation off the airport to a place three miles or six miles away would not help that issue. Another thing to note is that I did some investigation and the USPA reported to me that there’s only been two incidents in the history of skydiving, which is about 100 million parachute jumps, where a skydiver has collided with an aircraft that is not the jump plane. And it’s important to note both of those were not in the airport terminal area so really there’s a, in the history of skydiving so far, there’s been zero incidents that are your concern. And let’s see I have one other thing. You know I did print off the incidents at the Charlevoix airport if you’d like a copy of those I can provide them. Do you have any questions about that?”

Campbell: “What was the 19 fatalities in 2012? Were the?”

Kurtz: “The 19 what?”

Campbell: “The 19 fatalities according to the internet that said in 2012 there were 19 fatalities and there were 915 injuries. Were those just from jumping out of the airplane or?”

Kurtz: “I wouldn’t know the statistic you’re looking at Mr. Mayor.”

Campbell: “It was a U.S. Parachute Association.”

Kurtz: “So my guess is those were related to parachuting and not related to a parachute and an airplane colliding.”

Howard: “There is, I did do a little bit of light reading about parachuting and fatalities over the weekend, and the, I believe the site that you’re referring to Mr. Mayor does indicate 19 fatalities in 2012, there were 24 fatalities in 2013 and 2014. There’s the ability to go on that website and actually pull up the incident report of kind of what happened, it’s a brief description. I think that’s the same sort of document that Luther just passed out to you, contains similar information. There are, of all the incident reports that were on that website that I could look at, there were probably about a half a dozen or maybe 10 incidents that involve parachute plane collisions, but in all those incidents they were collisions of folks jumping out of the plane and hitting a portion of the plane as they initiated their jump and not a sort of mid-air collision that we’re talking about here. Now that doesn’t mean that it has never happened or it only happened twice. I’m not sure how many times that the mid-air sort of collision scenario has happened, just in the list of items that they provided. And they didn’t provide a range of dates, but I assume those were 2014 incidents. There weren’t any that involved sort of the scenario that a plane crashing, a non-jump plane crashing into a parachutist. It’s more likely they jump out and hit the plane.”

Campbell: “They hit the plane that they’re jumping out of?”

Howard: “There is that data out there. There’s the ability I think, to analyze that a little bit more in detail again, if I think, if Council wants to understand that better what’s the, how many incidents have we had and what’s the likelihood. That’s I think a very appropriate topic to ask for some follow-up from the Airport Advisory Committee on and get us that data so we can know that we’re all working from the same page.”

Campbell: “Makes sense to me.”

Kurtz: “One thing to note, I didn’t complete the statistic, I was talking about incidents that resulted in a fatality so I would guess there’s been incidents from where a parachutist has hit a plane on the ground or what not and didn’t result in serious injury, so just to clarify.”

Howard: “And I think that addresses bullet point number two pretty well. I did want to stop and mention that I know I threw out the term subrogation of insurance that our agent talked about. If anybody wants to know about subrogation I’m happy to explain it, but otherwise my suggestion is just to ignore that you’ve ever heard that term and if you have to ever figure out what it is, talk to your

attorney and he can explain it. And it's the insurance carrier has the ability to step into the shoes of the claimant that they've paid out for and recovered for somebody else. But that's not really what I think the issue was so I'd be happy to answer your questions there. But otherwise, question #2 was *'Has there been any accident between planes and parachutes in 2014 or 2015, especially in Los Angeles, Miami, Phoenix, Detroit, northern Michigan, Washington DC or Atlanta?'* Our carrier said, *'NTSB Data Base would have this information. I do not know of any notable incidents in the last two years.'* Again that's why I tried to look for as well, in those incident reports in the U.S. Parachuting Association's website and I didn't see anything but a jumper hitting a plane that they were jumping out of.

Bullet point number 3 is, *'Is SDH (Skydive Harbor) in compliance with the Airport Minimum Standards and Airport Ordinance with respect to insurance requirements? Insurance is REQUIRED.'* Our agent said, *'See attached Certificate of Insurance from Skydive Harbor Springs. These limits are greater than the limits we normally receive from Skydive operators. The City should compare these limits to the minimum standards.'* This is again an area that housekeeping that we don't have those published minimum standards at least as far as Linda could find. So we need to either unearth or uncover those or establish what those are and again I think that it would be very appropriate to ask for some input from your Airport Advisory Committee on what policy limits they would recommend and what minimum standards are for the industry."

Councilmember Gibson: "Mr. Mayor, I have a question. Scott, speaking of the Certificate of Insurance it says 'AvCon, Inc.' not 'Skydive Harbor' does that make a difference, what is, I don't know what the relationship is?"

Howard: "I don't know either. Luther?"

Kurtz: "I believe I sent another copy, didn't I Mike? that included Skydive Harbor Springs in the name, yeah so you must have an old certificate."

Gibson: "Was that just added later because I asked the question."

Kurtz: "Yeah, I added it because you asked about it. Apparently AvCon insures additionally Skydive Harbor Springs and the City, but I asked the insurance company to add Skydive Harbor Springs and AvCon to the name insured, because you asked about it."

Gibson: "The reason I'm asking is because I have a copy of the certificate of liability insurance from Island Airways and the way they list it is McPhillips Flying Service, Inc., Island Airways and Welke Aviation, so I'm just curious why yours isn't sort of spelled out a little better than that?"

Kurtz: "Well I changed it because you asked about it, so?"

Gibson: "But is the change really coverage or just change it to change it?"

Kurtz: "Well I didn't change it, the insurance company did. So I guess I can't speak on their behalf, but I would guess that yeah, they named the City as an additional insured, excuse me, additional insured so."

Howard: "I'd be happy to take an independent look at that with Staff and then provide you any feedback if there's any concerns about insuring. Oftentimes businesses have more than one name, they form as an LLC and then do business as a different name so."

Gibson: "I understand."

Howard: "So we make sure that, we want to make sure that everybody and their corporate family so to speak, is covered and so I'm happy to take a quick look at that and make sure."

Gibson: "Yeah, I just want to make sure that everything is correct."

Howard: "Yep."

Porter: "Mr. Howard?"

Howard: "Yes."

Porter: "Well as long as we're talking about insurance, I mean I certainly believe that Luther has the proper insurance for his corporation. But because he has these independent contractors that work for him are the independent contractors insured?"

Howard: "I don't know, I don't know what their arrangement is and again that's something I'd be happy to take a look at and make sure that the coverage. Generally that's going to be a policy coverage question from Luther's carrier and we'll make sure that whoever he has working for him including independent contractors are covered by the policy. I don't know, I haven't seen any details, but I think that's an important relevant follow-up question. We can ask that."

Kurtz: "I would think they're covered. Are you talking about if they're covered walking around the airport or covered while they're jumping?"

Porter: "No, I'm just wondering, if yeah, if they're covered walking around the airport."

Kurtz: "They're covered. Everybody's covered that's walking around the airport."

Howard: "A policy would typically cover somebody who Luther has hired to facilitate his business, but again it makes sense to double check on that and I'll be happy to follow-up on that."

Kurtz: "Do you happen to know if any of the other businesses at the airport have independent contractors?"

Porter: "I have no idea."

Kurtz: "Just mine, got it."

Supernaw: "Do you have independent contractors?"

Kurtz: "We do have some independent contractors, yeah."

Supernaw: "People that work for you?"

Kurtz: "They're independent contractors."

Supernaw: "Where's the parachutist come in there? Or what do you call them, a customer?"

Kurtz: "Yeah, we call them customers."

Supernaw: "Okay."

Kurtz: "You mean the people that pay us to jump? Yeah. You can call them whatever you want."

Gibson: "Money."

Supernaw: "Be nice to them until you get their money."

Howard: "The next bullet point is '*When the City's airport insurance coverage was renewed and was the coverage changed at some point to cover skydiving and what was the date of the change, if any?*' Our agent's response is '*No the City's coverage was not changed to include Skydiving. The policy does not exclude skydiving operations of others. ACE Group, the City's Underwriter, would respond to a claim in the event of a loss. The interest of the Skydive operator is NOT covered under the City's policy.*' I think this answer is a little bit confusing. I talked to the agent just to make sure we were both on the same page, but this is he's explaining what we talked about later with the two layers of insurance. Skydiving activities are covered by your airport policy, so if there were a claim made by, against the City for something that happened as a result of skydiving on the airport here, insurance coverage would kick in. It does not cover the company, the skydiving company, or the individual jump or person jumping or anybody in the plane. It only covers claims against the City. So that's what your agent was explaining there and that's sort of the two layer, again the two layers of insurance. The company has their own insurance, but the City has its own underlying insurance that would cover any skydiving related claim. Any questions about that one?"

The next bullet is 'Our airport insurance carrier in an email dated July 20, 2015 has indicated there is no exclusion for parachute operations. What is the definition of operations and does that mean coverage for the sky dive operation's planes only? Please define.' The agent's response is '*Policy wording is: we will pay those sums the insured becomes legally obligated to pay as damages because of bodily injury or property damage to which this insurance applies. This wording is the first sentence of the insuring agreement. The policy contains specific exclusions and references to aviation throughout.*' The aviation operation is something that's defined very clearly by the FAA and again this kind of goes back to the idea that the policy, the insurance policy that the City holds does not specifically exclude skydiving and therefore because of its broad coverage language includes skydiving. So your bottom line is you're covered for this type of skydiving activity, any type of skydiving activity and additional aviation activities at the airport. Any questions about that? Again the answer had me scratching my head for a minute."

Campbell: "Can they put that in writing, or I mean, because sometimes it tells you what you got and it's got a lot of pages that tells you what you don't got?"

Howard: "We do have the written responses from the, from our agent. An insurance company will always tell you that to fully understand what's covered and what's not, you have to go through all that big stack of pages. So this is always with the caveat that

if you really want a deep and detailed dive into what's covered and what's not, you need to look through all those pages. But in general there's no specific exclusion for skydiving operations. There's times where you have an insurance policy, for example, my homeowners' insurance policy excludes flooding, specifically right up front, so it'll say that some sort of freak accident happens and my house gets flooded I'm not covered by the insurance policy. There is no similar exclusion for skydiving. There's going to be other things that potentially apply to depending on what happens with the City or what the potential claim is against the City. So I can't say that you're always covered for everything always and there's no policy exception or issue, but in general, skydiving is covered."

Campbell: "Good."

Howard: "Next bullet is, *'Our insurance carrier spoke to the sky dive operator and he has standard limits available in the insurance market. What do the standard limits mean: planes only, passengers, airport damage, damage to other planes, i.e. jet traffic and their passengers, commercial operations?'* Our agent's response was, *'To clarify I spoke to the Sky dive operator as the agent. The limits as evidenced by the certificate attached as stated speak to the coverage which is industry standard.'* I'm happy to dig a little bit deeper into exactly what's covered and what's not in their policy, but my understanding is as we've discussed tonight in general, injuries that result during the actual jump by the jumper or the person parachuting are not covered under their policy. Other injuries are covered under their policy. I'm happy to provide more additional detail if you like or we could have the Advisory Committee provide more additional detail, but that's sort of a thumbnail outline and injuries to persons within the plane or to the plane itself would be covered by their liability policy.

Next bullet point is related, *'Our insurance carrier says 'all policies exclude the jumpers once they leave the aircraft'. And his answer is 'YES.' 'Does that mean the City has no insurance to cover jumpers if they are injured and jump on our airport property?' Response by the agent is 'If the City was named in a suit the policy would respond.'* Again that's that first layer of City insurance that we talked about. *'A claim would only be paid if the City was deemed to be negligent.'* In other words, if you are liable or responsible and again that would be that defensible governmental immunity. The question goes on, *'Does that mean the sky dive operations has no insurance to cover the jumpers if they are injured on our airport property?'* And the answer is, *'Depends on the cause of loss and the policy terms and conditions.'* Again that's that, but that's referring to that second layer of insurance, not the first layer that covers the City exclusively. So the answer sort of is under their policy depends, but under our policy it's covered.

Next bullet point question is, *'If there is no coverage by the sky dive operation and the City, if the jumpers are injured on our property, how does this expose the City to risk and liability?'* The agent's answer is, *'The City is covered for losses involving operations of the Airport.'* Which would cover injuries as a result of the skydive operation and again you would have those important governmental immunity protections as well.

Last bullet point is, *'If the City creates a hazardous situation (an entertainment activity with the potential of risk by allowing jumpers to land on airport property) how does the government immunity issue work?'* Agent's answer, *'If the City were to sponsor an airshow or other entertainment event they would be required to purchase a special Air Show Liability policy. The airshow and air meet would be excluded under the policy.'* So that's a bit of a tangent from the agent as we're not talking about air shows. We're talking about this particular skydive operation which is covered under our policy. If you were to invite the Blue Angels up for Venetian Festival you're going to have to have a specific policy, air show policy for that, but that's something different. *'Would the immunity be for sky dive operations and not the City? Is the sky dive operation using the City for governmental immunity? Is the City creating a situation to be sued rather than the burden being on the sky dive operation? In other words, is the sky dive operation using the City to protect its business?'* The short answer to that is no, governmental immunity does not apply to the business itself. It only applies to the governmental entity so the business would be responsible for regular negligence and would have to have its own insurance coverage and do its own defense. The City would have its own protection of governmental immunity and only be subject to liability if there was a gross negligence claim. And again that has to result from an action of the City itself. It can't, it's not a result of the skydive operator. In other words, if something happens and the pilot is negligent and that causes an injury to a jumper, that is not the City's potential responsibility. The City didn't cause that particular harm. It would have to be a scenario under which the City or its agent, somebody working at the airport, were to make some sort of, sort of reckless decision to, I don't know, we could come up with hypotheticals, but it would have to be some sort of reckless decision on the part of the City for a liability to incur on the City and not just something happening to, within the skydive operation itself.

That's a lot of talking by me. I'm happy to answer any more questions. Those are all our bullet points and again I just want to make sure we had full answers. I would suggest that for Council to move forward on this, that I work with Staff to address our making sure that our insurance policy requirements are up to date and in place, that our immunity and, excuse me, our indemnity requirements and the contractual requirements are in fact in place, that we look at updating our license agreement with users of the businesses that use the airport so that we can incorporate that directly and that ultimately, that you look to the Airport Advisory Committee to give you some additional input on some of the questions about the technical aspects of skydiving and relationships with airports and what are appropriate policy limits moving forward and then you can come back and have an additional discussion about where we're at moving forward."

Campbell: "Can we have the tenants sign a waiver like this one, this is a beautiful, even if they're negligent they're not responsible and you can go out of 16 things here, I don't know if you can get anyone to sign this but, but maybe they're eager to go but, can we have that same kind of a waiver to the tenant that takes all that away from the City?"

Howard: "What we, for the person doing the jump, that release and waiver both applies to Skydive Harbor and the City, so the City is expressly included in that waiver for the person jumping."

Campbell: "So when they sign this, that includes being signed to the City?"

Howard: "That's correct."

Kurtz: "The City's named in the waiver."

Howard: "The City's named in the waiver, the other, but the other item that we've talked about that is required by City Ordinance is this indemnity agreement that says if something goes wrong and the City sues, you agree to defend us and indemnify us which means pay any judgment that's levied against us. So that's an additional, excuse me, an additional protection for the City on top of insurance. It's important to ask for both, because there's times certainly where a business goes away, or a person goes away and doesn't have the resources to pay a claim. That's why you have insurance to help cover that."

Campbell: "So those are all the questions that should go to the Committee?"

Howard: "I think that those are appropriate questions to the Committee and then if there's additional information that Council wants to see addressed, we can either make a list of that now or submit. Or it may be more effective and especially given that I've been talking a whole lot, it might be better for everybody if those are submitted to Staff. Additional questions are submitted to Staff and then the Advisory Committee can work some information up and provide it back to you."

Campbell: "Good."

Porter: "Mr. Howard?"

Howard: "Yes."

Porter: "Would you review the release of liability and the assumption of risk waiver too, because, I mean, because you know I mentioned Capital City, what is it, Capital City Skydiving, Inc. There's all these different corporations mentioned and you know there is such a thing as a flawed contract and if you have a flawed contract, that contract is no good."

Howard: "I'd be happy to look at that as well. I think that that's obviously always something that's important. My main concern, and honestly when I reviewed it for tonight, was to make sure that the City was a part of that waiver and that there is what's called a severability provision that says if one of these, if a portion of this agreement is found to be illegal the rest of the agreement still stands. So if a judge were to say hey, paragraph two isn't, can't lawfully be in this contract, the rest of it still stands. Those are the two things I was looking for, but again I'm happy to take a look at that in the context of what the court said is lawful for a waiver and are we pushing the envelope or is this an appropriate waiver."

Gibson: "Mr. Mayor. Scott, do you think it would be prudent for the City to have its own waiver?"

Howard: "I don't, let me, my initial reaction to that is I think that we're okay having it as a combined waiver, but let me, as I address and look at the validity of what Luther's company has put together, let me get back to you. If I feel like it'd be better and cleaner for the City to have their own waiver then we can put something together. My initial reaction is that I think we can all do that in one document, but let me think about that."

Supernaw: "Mr. Howard, it's been, I think I've heard about 80 times in the last couple of weeks that this is a very litigious society and you hear that once in a while? Attorneys might like that. There was a letter in the Courier a couple of weeks ago about a young girl that was concerned about no lifeguards at two of our beaches. We have three prime beaches in Charlevoix. Swim at your own risk. Is that adequate? Does that eliminate our waiving our liability at the beaches with no lifeguard?"

Howard: "A sign that says swim at your risk will not completely eliminate potential liability, no."

Supernaw: "Everybody could just put a sign up, slip and fall, it's your fault."

Howard: "Yeah, so signage can be important, and waivers can be important. These documents do have meaning and there's reasons why people do that, but lots more about mitigating risk than eliminating risk. And so there's certainly, you either undertake certain public activities or allow certain public activities and understand that there's some risk in doing that and try to mitigate that. Or you just, I guess say, we're not going to open the beaches to anybody or open the airport to anybody and that's the other alternative. So what we, I think we do, have some constraints in terms of the federal government here and we can work within those constraints. I think it's always advisable for this body and the airport authority to look at the important issues of safety and how your tenants are or lessees are operating within the airport. And you should do that and that's part of your mandate as commissioners."

But there is going to be risk to the extent that you are operating the airport, period. The only way to eliminate that, is to shut down the airport and I don't think anyone is suggesting doing that."

Supernaw: "Another question. These questions, Mark, are coming from my coffee group that I told you I'm going to introduce you. You want to get acquainted with some of these guys?"

Heydlauff: "I hope they have coffee."

Supernaw: "Yeah, they also brought up we have a nice City golf course and it's necessary to cross a federal highway twice when playing that golf course, pulling your golf cart across the highway, four lanes. Exposure, potential exposure, risk, something we need to worry about?"

Howard: "I mean again, obviously safety's really important and we need to make sure that the course has appropriate rules and regulations to observe that. But is there a risk of an accident? Of course there's risk of an accident, but there's ways to mitigate that and you ought to, then the City ought to be looking into that."

Supernaw: "Don't have to close the golf course down?"

Howard: "I mean, that's obviously an option of the City, but I suspect most people wouldn't lobby for that."

Supernaw: "Thank you. The Airport Committee, Mr. Mayor, the Airport Advisory Committee. I'm sure anything they come up with will be suggestions to the Council?"

Campbell: "Yes."

Howard: "So for just a quick reiterate my list of items I'm going to look at: indemnity provisions, license provisions, insurance. And for the Airport Advisory Committee I'd suggest that you send to them the question of what are appropriate insurance requirements, what are sort of industry standards and appropriate insurance requirements and are there any suggested safety regulations that they would recommend that the City implement in order to facilitate safe operation of both skydiving and planes at the airport."

Kurtz: "Mr. Mayor, if you guys are done I have a few things I'd like to say."

Supernaw: "Mike just raised his hand."

Kurtz: "Oh Mike, feel free."

Spencer: "No, you're on Council. I'm just Staff. Okay, just a quick comment. We were on the phone with the FAA, Liz and I, and whatever recommendations the committee comes up with I would suggest that we have the FAA review those recommendations to make sure that they're legal in their eyes before Council takes any action on that. That's one thing they were very clear on. One thing that they kept saying is you can check with us, that's why they're there and it's hard to get something firm in writing from them. But in this case if we have a written recommendation from the committee I think it'd be appropriate for them and they would weigh in on that prior to any Council decision. You could tell that their approach is try and correct issues ahead of time before a governing body or a Council makes an arbitrary decision. And then there's an appeal process they have to go through and investigate and make a ruling on. So that was their advice and that would be my advice and probably Scott's advice as well. Thank you."

Howard: "Absolutely."

Kurtz: "Mr. Mayor, Council. So I just wanted."

Campbell: "So you want to use your three minutes now or later?"

Kurtz: "Mr. Mayor, I'd like a little more than three minutes since I'm the one on the agenda here. That be alright?"

Campbell: "That's fine."

Kurtz: "Thank you. So I just want to repeat a couple of things that I talked about last time. The FAA has guidance for how skydiving is supposed to be conducted. One thing it talks about, that Mike alluded to the FAA talked about is, sport parachuting is a recognized aeronautical activity and airports that accept funding are required to accommodate sport parachuting. That was discussed tonight. It says that the USPA's basic safety requirements are considered best practices and you have a letter from the Vice President of the USPA that reviewed my landing area and said that it complies with the basic safety requirements. That's actually in excess of the requirements. Section 6 says that most, and this is the FAA document, 'most parachute operations take place at airports, including having the parachute landing area located on airport property'. Then it goes on to say 'that many airports accommodate a large volume of transient traffic during skydiving operations' and also talks about all the other types of aeronautical activities that can go on at the same time as parachute operations, gliders, and ultra-lights and things like that."

Campbell: "When you talk about Atlanta, are you talking the main airport in Atlanta, because I've never seen."

Kurtz: "I don't recall bringing up an airport in Atlanta."

Campbell: "Pardon me."

Kurtz: "I don't recall bringing up an airport in Atlanta."

Campbell: "I thought you had a list of."

Kurtz: "Oh right. No I'm not skydiving at the Atlanta International Airport."

Campbell: "So then we're talking about the airport in Traverse City?"

Kurtz: "No, I'm not skydiving at the airport in Traverse City."

Campbell: "I thought you had a list of them and I was just wondering if that's what you meant or you were talking about a small airport?"

Kurtz: "Right. I'm talking about airports that aren't large international airports."

Campbell: "Like Torchport."

Kurtz: "I don't skydive at Torchport, but that would be an airport that would be suitable for skydiving just like the Charlevoix Airport. But I did give the Council an example of I think seven airports in the country that have many more airport operations per day than the Charlevoix Airport does. One of them had like four times the amount of aircraft operations and it hosts intensive parachute operations meaning there's like hundreds of jumps a day. The most we've done here is 34. So if that answers your question I'll move on."

Campbell: "Yeah."

Kurtz: "Okay. So there was some concerns brought up at the last meeting. One was brought up by Mr. Seelye, a noise level on the radio. He thought that having the skydive operation would increase the noise chatter, maybe you could correct me if I'm wrong. Yeah go ahead. What'd you say?"

Don Seelye: "I said there was too much traffic on the air from all the airports, mainly from (unintelligible), Escanaba, every place. That there was so much noise that you could not hear the jump plane announcement because we would talk over frequencies like that. As you know, or the radio squeals, it isn't always that you can hear everything, so it was very unsafe because nobody could hear anybody."

Kurtz: "Understood. So the same thing would happen if we were three miles away from the airport. The radio would just squeal if we were announcing that we were skydiving. People that were flying into the airport, if they happened to be flying over that area, it would be the same purported issue. You know we would actually have to talk more on the radio because we wouldn't be able to say we're parachuting over Charlevoix, we'd have to explain exactly where we were in relation to Charlevoix, so it would actually increase the amount of radio chatter and increase the chance that, you know, that the radio was squealing."

Campbell: "I think one thing you could do that would help, keep the jump plane up until the parachutes are on the bottom because you could alert airplanes coming in because we don't have any radar. We don't have any communication. All we have is like you know from 10,000 foot up out of Minneapolis, so if you kept the jump plane up and you could circle."

Kurtz: "What would he be doing then, trying to look down and see where the jumpers were?"

Campbell: "Well he could kinda bank around and see where they are because if a plane's coming in he could tell them be careful because there's a plane coming in, I mean, there's a jumper out there."

Kurtz: "That's a fine suggestion, Mr. Mayor, he could also alert people when they are coming in when he is descending as well. Would that work?"

Campbell: "He could do what?"

Kurtz: "When he's descending back to the airport the pilot could also alert people during that time."

Supernaw: "Is the plane always on the ground before the parachuters are?"

Kurtz: "No."

Supernaw: "So he is up in the air?"

Kurtz: "The plane is usually in the air still when the parachuters land."

Campbell: "Well that's what I was talking about, if he stays up, he can."

Kurtz: "Yeah so I misunderstood. So usually the jump plane will start descending right away, talks to Minneapolis Center, tells them he's descending. He makes a call on the radio for the people that are flying in local traffic and you know, if I hear when I'm flying somebody that's coming in that wasn't on the radio prior to me making the calls, or the parachuters, I'll alert them."

Campbell: "I think you kind of have an obligation to let people know that there's a parachute there. If he stays up there for a little bit until the guy gets on the ground or her or whoever you could alert somebody, that we've got chutes in here, because there are some things that don't even have radios is that correct?"

Kurtz: "Yep. They go by 'see and be seen' just like our parachutes do."

Campbell: "Pardon me?"

Kurtz: "'See and be seen'. So our parachutes are steerable just like a plane that doesn't have a radio, and we look around and make sure we're not going to run into somebody just like that airplane is doing and our parachutes are pretty big actually. I think you can see them from this building. If you sat here during the day when we're jumping you could see them from here. But we do that, like I said, when the airplane's descending, if we see someone that's coming in that wasn't already on the radio. Usually an airplane coming in is alerted by Minneapolis Center if they're on an approach so all the jets would likely be doing that. If a plane is not talking to them, they're just talking on the local frequency, then they would hear the calls for the parachute jumps. They would probably have listened to a NOTAM, although it's true some pilots don't do that. Okay."

Campbell: "Can you kind of wrap it up because we got to go through the audience yet and Mr. Howard's gotta go?"

Kurtz: "Yeah, I just have a little bit more, Mr. Mayor. So like I talked about before, avoiding conflict with aircraft. You know the issue that is being brought up by the Council, they're concerned that a parachute is going to collide with an aircraft in the traffic pattern or somebody in the terminal area of the airport, which means the area that you would kind of be in when you're negotiating your way to land if you're a pilot flying in. I was unable to find any fatal incident where a parachute had collided with an aircraft in the history of skydiving. Perhaps Mr. Howard will be able to do better research. I talked to some people at the USPA. They're not aware of any. So it's a very unlikely event. I did just to kind of compare, you know, bird strikes from 1990 to 2013, there's been 142,000 wildlife strikes. I know that somebody that wrote a letter to the airport complained about birds and thought that parachutes weren't an issue and thought that the City should be more concerned with the birds at the airport. So that is a statistic that's pretty startling when compared to zero fatalities in the terminal area of the airport between a parachute and an aircraft. Let's see, so then we talked about insurance, I did provide a copy of the certificate, you know it's the standard skydive insurance. I have the highest limits. I did pay extra without being asked to, to increase the limits to two million. That was prior to all this coming up."

Campbell: "What did you mean in the July meeting when you said they're insured until they step out of the plane?"

Kurtz: "Well, isn't that what we've been talking about all night, Mr. Mayor, is the."

Campbell: "If you didn't have insurance then you couldn't have had insurance. If you knew that the FAA didn't require you to, why did you go for three months and, I mean, why didn't we just settle this before, because you must have known you didn't have insurance?"

Kurtz: "But I do have insurance, Mr. Mayor."

Campbell: "You have insurance until they step out of the plane."

Kurtz: "So what's your question?"

Campbell: "Well, you don't have any insurance you said when they step out of the plane."

Kurtz: "Right, I think we've all said that tonight."

Campbell: "I know that's what we discussed."

Kurtz: "So what's the question?"

Campbell: "But if you knew that you didn't have insurance and I'm talking about coming down."

Kurtz: "I have insurance. It excludes the people when they jump."

Campbell: "Then what did you mean by that?"

Kurtz: "What did I mean by saying that I have insurance, but it excludes people when they jump?"

Campbell: "When they step out of the plane."

Kurtz: "I think I meant exactly what we've been talking about all night, Mr. Mayor."

Campbell: "But you don't have insurance coming down, right?"

Cole: "On the jumper."

Kurtz: "I think so, yeah."

Cole: "Right, but that's what he's saying."

Campbell: "Ok, so why did you not just say that three months ago and then say that you can't get insurance because it's considered too dangerous and nobody will write it. So that's what I'm trying to get through my head."

Kurtz: "Well, I have the standard limits in the skydiving industry. I have the insurance is what, I know that all other 270 airports that accommodate skydiving have. So I provided the insurance that's standard in the industry."

Campbell: "You're talking about the insurance all the time, but you said you don't have insurance for the time when you step out of the plane to the ground, the parachutist."

Kurtz: "I have insurance that excludes the people when they're parachuting, yes."

Campbell: "Okay, and so you can't get that because nobody writes it, is that correct?"

Kurtz: "That's my understanding, Mr. Mayor."

Campbell: "But if you had known that three months ago, you wouldn't have had to haul it in to Mark. That's all that I'm saying."

Kurtz: "So you're saying I should have."

Campbell: "I didn't know, I didn't know that the FAA said you don't, you can't force you to get insurance because it's not written."

Kurtz: "Mr. Mayor you said a lot of things about my skydiving operation at the last meeting and on the news and on NPR. How many times have you called me before you did all that to talk about my operation?"

Campbell: "I'll tell you what, I'm not an expert on skydiving and I think you are. And what you say in here all the way through these 16, is that, once you jump out, you can even be held liable for damage (unintelligible) and you seem to be protected. That's why I wanted to know if we could get the same kind of protection off of the tenants that you seem to have off of your customers, that's all."

Kurtz: "So is that a question?"

Campbell: "Well I was asking him, Scott, because I don't know how you get people to read this or even sign up because it says that even though you know that it's very dangerous that you're signing off and then it goes down if you have an injury or death you sign off and if you're negligent they're still responsible. Do people actually read this before they initial it or?"

Kurtz: "I think so, they spend time staring at it, I don't quiz them about it."

Campbell: "Okay I just, I would like to see the City covered like that, that's all."

Kurtz: "I think Mr. Howard stated that he thought the City was covered when we named the City as a released party."

Campbell: "Five million dollars, I guess he said."

Kurtz: "I don't think the waiver covers them up to five million dollars, I think the City's insurance policy covers them up to five million dollars. By them, I mean the City."

Campbell: "That's the only thing I'm concerned about. The facts I got in there is the City and I want them to be protected. I don't know a whole lot about insurance but I want the City to be protected because every Councilman and the Mayor and the City Manager that's their basic responsibility."

Kurtz: "I understand Mr. Mayor."

Campbell: "Well that's what I want."

Kurtz: "You know you asked about how people would sign the waiver, you know. Would the waiver be very effective if it said skydiving was safe and there's was no chance of injury?"

Campbell: "No, I'm not making light of it, I'm saying I read through this and I thought I was gonna put it on my bucket list but ain't no way that I'm gonna sign something like that."

Kurtz: "Okay, I lost a customer."

Campbell: "Pardon me?"

Kurtz: "I lost a customer."

Campbell: "Well you didn't lose a whole lot, it'd just be one time and I'm not gonna do it."

Kurtz: "Can I go on?"

Supernaw: "Let me ask a question again. Scott, I went on the Ferris wheel last week. I didn't sign anything. If I fell off or the Ferris wheel collapsed, is the City responsible? They're on a City street."

Howard: "I'm sure you could find an attorney who might suggest that the City is liable."

Supernaw: "Quickly I imagine."

Campbell: "Maybe if you jumped off at the highest point."

Howard: "No. Likely general governmental immunity would apply and you would be protected by that, but also the City would be protected by its insurance policy which I think has a special rider for Venetian and the Ferris wheel."

Supernaw: "You know something the Mayor just mentioned about this litigious society again. An attorney in town, talked to me about, and I was gonna bring it up two weeks ago. There's another issue where someone may sue the City and he said they won't only just sue the City. And I think this is what Mr. Mayor was just talking about. They will sue the City, they will sue the Council, they will sue the Mayor and the City Manager and they'll sue every Councilperson individually. Is that true? They can do that? Bring everybody in and, maybe some judge will toss it out, but it might cost me \$500 to go get my name off the list."

Howard: "I always tell clients that all it takes to sue somebody is a piece of paper and filing fee. So could somebody sue you all individually? Yes absolutely. The important question I think you always need to ask yourself is, would they be successful? And the answer is, barring some sort of extraordinary circumstances, no. You would be dismissed quickly from that lawsuit and likely you wouldn't have to spend your own money as the City's policy would cover you for that defense as well."

Kurtz: "Mr. Howard, is that possible for all types of things like riding on Ferris wheels, and riding in airplanes at the City airport and walking on the sidewalk?"

Howard: "Yes, we're talking about general potential liability for the City."

Kurtz: "Okay, thank you. Should I go on?"

Campbell: "I was just using your language when you said that was not inherently dangerous. I think is what you put it. Did you write that?"

Kurtz: "No, I had an attorney write the waiver."

Campbell: "Ok, I just wondered."

Kurtz: "Thank you. So like I said I provided a copy of the insurance certificate, standard skydive insurance. It's the highest that I have been able to procure in the industry. We sent questions to the insurance agent and he replied that I had better insurance than most. I can't remember exactly how he said it. He also stated the City is covered in the event that there is a loss to the City regarding my operation. You know other operations at the airport. The City does have governmental immunity. I believe Mr. Howard talked about that. And then moving on to the FAA requirements, the FAA did send an email like Mr. Spencer talked about that said that the airport needed to accommodate skydiving. Airport operators, you know, I know of four that could be considered, three that could be considered operators, there's a flying club, there's two 135 Charter operations to the islands. My understanding is that all three of those have stated, some verbally and some in writing as a letter to the City, that they think the Charlevoix Airport can accommodate skydiving. And lastly I brought up those airports around, there's 280 and some airports around the country that accommodate skydiving and I sent you examples of seven that, one I think is in Cincinnati, and that have operations that are more than the Charlevoix Airport. Some significantly more, and they've been able to safely accommodate skydiving for a long time. So what I'm asking is that we put an end to this and at least the Council decide that we're not going to bring this up again until my valid license is up next March. So that's all. Do you have any questions?"

Cole: "Thanks Luther."

Mayor: "Any questions?"

Councilmember Perron: "Scott I just want to make clear at this point in time if there was a major accident at the airport you think between our policy and governmental immunity we'd be covered?"

Howard: "I do. I mean obviously we can't cover every single hypothetical out there, but we do have, we have coverage and I don't know what our policy limits are and our general liability, but we're covered up to those policy, certainly up to those policy limits. And you have important protections in governmental immunity. So it would have to be something extraordinary for somebody to prevail on that, in that particular lawsuit."

Kurtz: "Is that possible with things other than skydiving as well?"

Howard: "Yeah, of course."

Kurtz: "Thank you."

Campbell: "Well if there's no other questions I guess we'll open it up to the audience. I want you to stay on the issue of insurance or safety and you have three minutes, but I didn't bring my three minute timer so we'll kinda watch the clock. Mr. Scherping, if you want to come up."

Chuck Scherping: "Good evening, Mr. Mayor and City Council. As you know Charles Scherping is my name and I'm the President of the Charlevoix Flying Club with Emmett Sports Flyers as we'll call it and I've been watching these skydivers for the entire year and I find them to be a very safe operation. And I don't see them having any conflict of interest between my flying as a flight instructor or anybody else's flying because when they're on the runway they're on an airplane and when they jump out of an airplane they are pretty much right over the airport. They're not very far away and airplanes coming into a pattern to land at the airport is way outside of the airport, usually a mile away at a minimum and heavier airplanes are farther than that. So I can't see an issue with their operation at the airport at the present time."

Campbell: "Okay, thank you."

Scherping: "Any questions?"

Councilmember Cole: "I'm sorry, Charles, one question, how many flights do you make in a month as far as instruction or with your club?"

Scherping: "Maybe 20 or 30."

Cole: "Okay."

Scherping: "It depends on what I'm doing."

Cole: "Right, it depends on business. I understand that."

Scherping: "Yeah, everything has a, it's fluctuating you know."

Cole: "Sure, okay, thank you."

Scherping: "But I do have about 8,000 hours of flying so I think I can speak from experience."

Cole: "I think so, and that's pretty good for being, what, 40 years old."

Campbell: "Is there anybody? Don would you come up?"

Don Seelye: "I'm Don Seelye. Got a little thing to read you here. I wrote it down because I don't want to miss anything and as I said at the last meeting I started using the airport in 1966. I own an aircraft. I have 3,500 hours as a pilot. I'm based here at Charlevoix. I live next to the airport. I'm around the airport all the time. My grandson is one of the tandem jumpers for Skydive Harbor Springs and he loves it. He's also one of the other pilots and I can tell you my concerns are real and not swayed by family ties as you will see as I continue. And as many people have said and I agree skydiving is fun to watch as an additional use of the airport but it needs to be safer for all. My problem is the safety aspect, mixing aircraft that come in at 150 mph with a parachute that may be from zero to 20 miles an hour is just not a good idea. It's like putting a guy on a moped in the middle of a racetrack and the racetrack are communicating or at least have certain rules and the moped is just essentially roaming around. If you just picture that, but it's even worse because in flying everyone is moving in three dimensions. You've got now only right to left, but up and down and worry about a whole lot of other things. This is why you don't see skydiving at most airports. The most complicated phase of flying is the landing phase, the bigger the plane the more complicated and that is the reason most jets have both pilot and co-pilot. During landing both pilots are busy making sure the plane is configured for landing and at the same time keeping the speed right and making a flight path that will get them down to the runway at the proper spot being sure the landing gear is down flat, make sure the flaps are down, listening for traffic, avoiding other traffic, is an extremely busy time for the pilot. It's been said that piloting is like having to a bliss followed by two minutes of terror and that really can be true. Learning to fly and the hardest part of learning to fly is the most stressful part of the training is learning to land the plane. Now add some parachutes in the same air space and the pilots are distracted trying to keep track of the radio, or no radio, slow moving object that has no ability to greatly alter position is going down no matter what, he can't go back up, he's coming down. Even if there is no close encounter with the jumpers there's still an accident potential caused by the distraction of avoiding the jumpers. If the plane lands wheels up, misjudges speed, or over or under shoots the runway we have an accident. I could go on with a whole list of potentials that distraction can cause, but the point is having to find, see and avoid a parachute during landing is a very dangerous situation, can be. Yes, the FAA says the rules say we can have jumping here, but they also say we can set our own rules. Luther listed several airports as examples of places where jumping takes place. Our airport is listed and shows a very low traffic count but what is not stated in that listing is that most of that traffic is summer months and if you looked at it during the months it is a very busy airport because that traffic is condensed into the summer months especially Thursday, Friday, Saturday, Sunday and Monday. Not so much, excuse me, Saturday is a less busy day. Most jump airports have very large landmass so they may have room to separate the jumpers from landing aircraft or land off airport. Our airport is about 200 acres. The other large airports listed by Luther have 900 to 1,400 acres. I called every one of those listed airports, talked to people at each of those airports, most of them are permanently jump airports and the heaviest traffic is the jump airplanes it's not incoming traffic from other places. One is an airpark subdivision, that's what an air park is, with homes and planes where it's fairly light, fairly small planes where the traffic is, not at all like Charlevoix. Some are smaller, sometimes grass runways. One of those listed is the Deland Airport in Florida that's primarily a jump airport, it's extremely busy, they make parachutes there, almost the whole reason the airport can be there is it's a jump airport. I asked the people at Deland if there had been any accidents and he said yes. I clarified have there been jumpers hitting planes, he said yes, and there have been deaths. The listed airport in Utah is a tower controlled airport that means they have positive control of the airplanes just like Traverse City so all aircraft are positive controlled. The very first words from the Tower Manager when I told him what I called about was no, no, no. He said it's a real problem and they now hold all traffic out of the pattern while the jumpers are coming down. We can't do that here because we are not tower controlled. We could have the jumper plane hold all jumpers while there's an aircraft in the traffic pattern within five minutes of being there."

Campbell: "Mr. Seelye, could you wrap it up?"

Seelye: "I'll try, okay. The real solution is simple and workable. Have the jumpers land off airport at least two miles and preferably three miles away. I'd love to see that. I don't know if I've got any, I've got a lot of other points, oh, the Michigan study of aeronautics last year told us economic impact of the Charlevoix Airport was at least \$22 million dollars per year. That's a lot of money comes into this area from the airport and there are airplanes that are limited to not come here. Corporate aircraft if there's jumping going on they can't come so we've lost that traffic so it's a question of do we want the jumpers or do we want the big airplanes and the economic impact of those jumpers and my solution is not to put Luther out of business, not at all, my grandson loves it, it's fun to watch, it's great, but I think they should land off airport."

Campbell: "Thank you. Is there anybody else?"

Airport Manager Myer: "Good evening, again I would like to remind everyone that I'm the Airport Manager, but in all the, with all the discussion about the parachuting and everything I want to remind City Council and the Mayor that during all this time, with all the proposed everybody keeps talking about how much traffic and everything there is I've only received one complaint which I stated last year from Island Airways. I have not received any complaint from all the corporate pilots, the ones that come in there on a daily basis when we are when we do have a large volume of traffic. So I just wanted everybody to be reminded of that. And from my operation point of view, since I do manage the Airport I have not had any issues between the jet pilots and the large airplanes and what not. You can say about the mixture of the parachutes with the jet aircraft, but by rights if somebody came in with an ultra-light or something too they can work their way into the pattern too. So we've had a lot of small airplanes too that we somehow always

manage to make it work. So anyway that's the only thing that I have to say is we've only received that one written complaint so, but none of the other pilots have had any issues on a daily basis with the parachuting so. Thank you."

Campbell: "Thank you."

Supernaw: "Ms. Myers."

Kurtz: "I think it's important to note."

Supernaw: "Mr. Seelye mentioned that some people won't come in here because the parachuters are in there."

Meyer: "I have not had any anyone call me up and say hey I'm not coming in because somebody's parachuting, so I have not received anything."

Seelye: "Can I comment on that? You just don't know because the companies (unintelligible) are not filing a flight plan so you just won't know."

Cole: "Well, out of the three phone calls I made to the local ones, none of them had a problem. Any of the corporate planes that come in right now have said no they are not restricted."

Supernaw: "We do have a stack of letters up here, Don, from people that don't have. Is anybody from Island Airways here? I would like to get on the record, either from Don, I was going to ask you, but Liz I've got these two letters the one dated July 6th and another one dated July 13th a week later, a complete turnaround, a 180, a big problem here the one that was filed on Monday after I suppose we started on Thursday, and a letter the following Thursday saying."

Cole: "That was the one after the meeting with Luther, right?"

Supernaw: "Yeah."

Myer: "Correct."

Supernaw: "It says 'I have agreed in the spirit of working together to change some of our flight patterns to help further prevent any conflict in the air space around the Charlevoix Airport.' I live up there and I know they changed their landing pattern."

Myer: "Right."

Supernaw: "It says based on these discussions, this is Island Airways, 'I believe skydiving can be accommodated at the Charlevoix Airport.'"

Myer: "Well, I think that's what's important, the bottom line, I mean all emotions aside and everything. I think it's important that we look to bring the operators and everybody working together to come to a solution on this. So and like I said the attorney summed it up probably the best, unfortunately or fortunately, whatever way you want to look at it, we have to go along with the guidelines of the FAA say and that's what we have to live and go by. So it's not everybody has concerns and whatnot but the FAA is the one who dictates basically what's going to happen, you know, with that airport, so."

Supernaw: "And the hammer here is in this other letter from Steve Saindon. Is that how you pronounce his name? Do you know him? And the hammer is the FAA when I asked earlier of the City Attorney if the FAA is going to have the final decision on this, the hammer they've got is the million dollars that we get for the airport every year."

Myer: "Yeah, that's correct because we get, we have to since we accept the grant assurance or the entitlement money, we have to. We can't discriminate against you know an operator basically the way its best interpreted so because Luther did have a case. I believe it was in Arizona or some place, where he had to file against basically what Scott Howard was talking about earlier. Wasn't that in Arizona?"

Kurtz: "Yep."

Meyer: "Where it was kind of the same situation. I might be mis-speaking. He'll know it a little better than I do, but where it was kinda the same situation where he had to go to the FAA and the FAA ruled against the airport so."

Campbell: "So could you wrap that up pretty quick because you're out of time."

Meyer: "Yep that's all I have to say. Thanks."

Supernaw: "Thanks, Liz."

Mayor: "Is there any?"

Sherman Chamberlain: "Sherman Chamberlain, 3rd Ward and a member of your Planning Commission and also a customer of Luther's operation. So I just wanted to bring to your attention how his operation is run. I think he runs, I think safety is paramount in his operation. It began with my 65th birthday, my kids bought me a jump and I was supposed to be out at the airport at 2:00 that day. Some storms came in and they quickly called and said your flight has been delayed because of weather conditions so just hold off we'll call you when we're ready for you. They called at 3:00 and said we're ready for you. I went out to the airport and to begin with you have about 20 minutes worth of reading to do to go through the risk factors involved with what you are doing. My kids do love me, but you know. I'm 65, I'm on a government health care policy so I don't have to worry now. So it takes about 20 minutes to read through all these questions and basically the long and short of it is I realize that I am doing a dangerous activity and that I am not going to sue anybody if anything goes wrong. That's basically the long and short of all this reading. So you have 20 minutes to decide whether you jump or not and then they hook you up, put you in the plane, and then they take off, what happens is the pilot has the peripheral view, the two tandem pilots are in the back looking out over the rear end, they're always on the lookout as to where the planes are at, they'll say plane taking off. We saw the all three employees of Luther's are in contact with where planes are at a certain time and when you get up in the air and you roll out and down you go and I always felt that safety was paramount. They checked all the harnesses before you did the jump. It was quite an experience. I don't know if I'll do it in another year or not, but maybe I'll wait till 75. But again it is a safe operation. There is a lot of visual communications between what's happening on the ground and up in the air. I felt that the parachutists were in real good control of their parachutes. The landing was soft as can be and they knew how to maneuver the parachutes around so I got a really good view. But again I feel they run a safe operation and I realized that I was doing something dangerous and probably just have Mr. Howard review all the stuff that the customer signs I think would be fine and again I know that I was doing something dangerous and."

Campbell: "Could you wrap it up pretty quick?"

Chamberlain: "That's it. I had a good time there."

Campbell: "Is there anybody else. State your name and."

Terry Osterhaut: "My name is Terry Osterhaut. I just want to point out a block away on the City property behind the theater, actually next to the sidewalk, there's an exposed where a light post was removed and it's been exposed for about a year, year and a half maybe, and I've watched continually as people trip over it and skin their knees. I've seen an elderly woman get bloody tripping over it and I know for a fact it's been reported multiple times to the City. The potential for someone to get hurt is there and I feel that it's great that the City Council is so diligent about some of these things, but there's a lot of issues in town that really need attention such as that."

Campbell: "That should be under Miscellaneous."

Osterhaut: "No it's related to what you're talking about. So my point is that somebody who is a taxpayer and somebody who's invested in this, it would be nice to see the energy spread out. I think this has gone on for long enough and I will wrap it up."

Campbell: "Thank you. Is there anybody else that wants to?"

Matt Burr: "Hello, my name's Matt Burr and I just would like to say that I think I've been here for the last two meetings for this issue and I think Luther's record speaks for itself and he's doing a pretty good job as far as safety."

Campbell: "Could you give what ward you live in?"

Burr: "I'm sorry."

Campbell: "Could you tell us what ward you live in?"

Burr: "I don't live in the City of Charlevoix, I'm a fourth generation resident of the Charlevoix area. So I just think that Luther is bringing business into the City. By my calculations about 1,000 people a year and I support skydiving in Charlevoix."

Campbell: "Thank you. Is there anybody else that wants to comment or no comment?"

Seelye: "First of all I just want to say again I'm not against Luther's operation, I just want to see it safe and see the airport safe and have the economic income from that airport not be affected. But my question is if an airplane is coming in and a skydiver distracts him and he either gets too slow and crashes because he stalled or he lands wheels up or something or it was that skydiver that distracted me and I forgot to put the wheels down or I got too slow is that a sue-able event that they could name the City and now we've lost the jet maybe and lost a bunch of lives? Is that a scenario?"

Howard: "Again certainly somebody could sue the City over that, but under that scenario that you just described to me I would suggest that would not be a, would not be something where the City would be liable for that accident."

Seelye: "Even though the City allowed the skydiving operation to be here?"

Howard: "Even though the City allowed it. The fact that the City allowed skydiving in and of itself wouldn't be something that's negligent let alone grossly negligent, so I don't see it under that scenario that the City would be liable."

Seelye: "Okay. Thanks."

Tom Wanick: "My name is Tom Wanick and at this point having heard all this I followed this a little bit in the papers and in general conversation and it appears relatively the FAA has spoken they are the governing authority. I don't believe the City Council has any particular authority to deny or unduly restrict this operation without incurring significant liability or at least risk of liability in violating the federal government's mandates. I think a lot of time and energy has been spent on this issue to no great affect and at this point I would suggest that time be better spent perhaps insuring that the documentation is in order with regard to indemnities and that's for all the operations at the airport, not just skydiving, making sure that the insurance coverages are appropriate. And if the Council feels that the insurance coverage is insufficient you could investigate increasing those coverages at whatever cost that might be. But it really does feel like it's time to move on from this issue. I think this is going to happen and going to continue to happen, I think that's probably a good thing and I would suggest we move forward. Thank you."

Campbell: "Thank you. Is there anybody else? (applause). The next time we will clear the chamber. We will not have any applauding, no clapping, no booing, and you'll respect the people at the top."

Dryer: "Hi I'm Liam Dreyer. I'm only 10 years old and it's eight more years until I can skydive and I really like it to stay up so maybe I could have a chance. I really think it's 100% safe. It's a very slim chance that an aircraft will hit a skydiver. Thank you."

Campbell: "Thank you. Is there anybody else that wants to make a comment or? Going, going, gone. I close it to the audience and."

Kurtz: "Mr. Mayor. I'd just like to make one comment if I could. I, as I said last time, I have a lot of respect for Mr. Don Seelye but I do believe there is some factual inaccuracies in what he said. I don't want to go into all those, but one thing to note is that the operation in Deland. The airport reports 328 aircraft operations per day and if that's all the skydiving operation they fly planes that hold 20 people and that skydiving company must be doing really well if that's all the skydivers. I happen to know for a fact that there's intensive flight school operations that take place out of there that have a lot more operations than the parachute plane."

Campbell: "Thank you."

Seelye: "Listen I talked to someone (unintelligible)."

Campbell: "If there's no other comments, then let's close it to the audience and Council what's your pleasure?"

Cole: "Well, I think Scott's right on the indemnity that we need to look into that. My thought right now is I'd like to make a motion and discuss that but at Luther's license time. I'd like to put an end to this and get Luther going and be done with it. We've discussed it long enough, everybody, I mean, all the governing bodies feel it's safe, everybody that operates out there feels it's safe."

Campbell: "Well I think that we have to go to the Committee and get answers."

Cole: "Well, I don't think we do myself, but."

Campbell: "Well that was the attorney's."

Cole: "True, but."

Campbell: "Recommendation."

Supernaw: "In regards to the Committee, Mr. Mayor, can we review the membership of the Committee and their charge prior to them going into this? The last I heard that there's was going to be, that there was some disharmony on the board. Is there a vacancy?"

Campbell: "Not that I know of. There's no vacancy."

Supernaw: "Shirley, is there?"

Gibson: "No."

Supernaw: "Did you suggest? No there isn't. I would like to review. The last I heard there wasn't going to be any Airport Committee meetings because the Chair would not call one."

Campbell: "In the meantime."

Gibson: "The City Manager can call one."

Supernaw: "Okay."

Campbell: "And the, and I thought she said that she was going to call one."

Gibson: "So can I, I've done it before."

Campbell: "Is that correct?"

Spencer: "Mayor, I believe Liz's exact statement was that she would not be inclined to call one, at the meeting. I spoke to her the next day and if she's asked to by her superior to call a meeting, then she is willing to do that."

Campbell: "Well that was my understanding, that there was gonna be a meeting."

Supernaw: "Can you make sure that all Council people are aware of a meeting of the Airport Advisory Board?"

Spencer: "Absolutely, we notify you of all meetings."

Campbell: "Everybody on the Council is advised on every meeting, at the, when you walk in the door when you look to the right there's everything's posted and that's going to continue?"

Heydlauff: "That's correct Mr. Mayor, as a public body, the Open Meetings Act require us to give notice to it."

Campbell: "Thank you."

Supernaw: "Did you make a motion?"

Cole: "Yes, I made a motion to be done with this and move on till Luther's licensing comes up."

Gibson: "Mr. Mayor, may I make a comment? Scott, I have a question. Are you an aviation attorney?"

Howard: "I am not."

Gibson: "I have a suggestion. I'm not against skydiving and never have been. I'm just trying to protect the City from liability. And my suggestion is if Council is supportive, is to request that the City Manager and the City Attorney consult with an aviation attorney to determine the level of risk and develop a strategy to reduce the risk to an acceptable level in the form of a waiver to insulate and protect the City from risk and liability. Now that is not stopping the skydive operation. I just want the City to be totally protected. How does Council feel about that?"

Supernaw: "Why don't we just hire an aviation attorney, isn't there one in Traverse City?"

Gibson: "There's one in Grand Rapids."

Howard: "I was going to say I know a name of one potentially in Traverse City, but I'm happy to find those resources."

Supernaw: "Cost us a couple thousand to get an opinion from him or get him up here so we can grill him?"

Gibson: "Well I want him to work with the City Manager and the City Attorney on a waiver to protect the City, that's what I'm interested in."

Supernaw: "We don't have that yet Scott?"

Howard: "There is the waiver that Skydive Harbor requires of its jumpers, that's the one we talked about earlier and sort of I deferred on whether or not it was my opinion that we needed a separate waiver. So I'd be happy to talk to, work with the City Manager, to get aviation experts names to talk to them about whether it makes sense to have a second independent waiver and we

could, depending on what Council's desire is, we could have it as limited as a few phone conversations or as detailed as having them come up, probably fly up and give us their opinion."

Cole: "Fly up, that's expensive."

Supernaw: "Scott if you were sitting on the Council, would you advise the city attorney to pursue this as we're suggesting you do now?"

Howard: "I think that that's a reasonable course and I'm fine with it and I fully recognize that I'm not, I can't be an expert in everything so that makes sense to talk to experts frequently."

Mayor: "Is that in the form of a motion?"

Porter: "Well there's already one."

Cole: "Well there is already a motion on the floor."

Campbell: "Well there was a motion but it wasn't seconded so that died, so."

Supernaw: "No, I'll second it."

Cole: "You didn't give it a chance."

Supernaw: "I'll second Shane Cole's motion."

Gibson: "What is the motion, Shane?"

Cole: "The motion is to end the discussion until Luther's license comes up again. I like your idea if we get that work done while his license is up but the rest of this, making him wait on this."

Gibson: "Oh no I don't, I'm not intending to make him wait. I just want to make sure the City's covered."

Cole: "Sure, I appreciate that."

Gibson: "I'm here to protect the City and the taxpayers."

Supernaw: "I am too, Shirley."

Cole: "So are we, but the point is also let him operate his business also is what I'm saying."

Gibson: "No one was trying to shut him down."

Cole: "Okay, so there's a motion."

Campbell: "Is there any discussion? Please call roll."

Clerk Golding: "Cole?"

Cole: "Yes."

Golding: "Supernaw?"

Supernaw: "Yes"

Golding: "Porter?"

Porter: "No."

Golding: "Kurtz, oops I'm sorry. Perron?"

Perron: "Yes"

Golding: "Gibson?"

Gibson: "Yes."

Campbell: "Did you want to make a motion?"

Gibson: "Oh well sure. Do you want that to be a motion?"

Campbell: "Yes."

Gibson: "Oh, okay. I make a motion to request that the City Manager and the City Attorney consult with an aviation attorney to determine the level of risk and develop a strategy to reduce the risk to an acceptable level in the form of a waiver to insulate and protect the City from risk and liability."

Perron: "Support."

Campbell: "Discussion? Please call roll."

Golding: "Cole?"

Cole: "Yes."

Golding: "Supernaw?"

Supernaw: "Yes."

Golding: "Porter?"

Porter: "Yes."

Golding: "Perron?"

Perron: "Yes."

Golding: "Gibson?"

Gibson: "Yes."

B. Consideration to Approve a Resolution Verifying Non-Profit Status for a Charitable Gaming License

The Rayder Gridiron Club would like the City to consider adopting a resolution in support of 50/50 raffles at local football functions. According to State statute, a resolution from the local governing body recognizing their non-profit status, as well as an endorsement of their gaming license is required.

Mayor Campbell opened the item to public comment. There was no comment, and the item was closed.

Action by Resolution.

C. Status of the Designated Interim City Manager

City Council appointed Planner Michael Spencer as Interim City Manager upon the departure of Mr. Straebel earlier this year. City Manager Heydlauff indicated that Council should end the role of interim manager at their discretion.

City Manager Heydlauff proposed for Council to rescind the interim title and authorize himself to set an appropriate pay rate for additional duties assigned to Planner Spencer as City Manager Heydlauff transitions into his role.

Appreciation was expressed to both Mike Spencer and Linda Weller for their efforts during the absence of a City Manager.

Mayor Campbell opened the item to public comment. There was no comment, and the item was closed.

Motion by Councilmember Supernaw, second by Councilmember Cole, to strip Mike Spencer of the Interim [City] Manager title and return him to his City Planner title.

Yeas: Cole, Supernaw, Porter, Kurtz, Perron, Gibson

Nays: None

Absent: None

D. Consideration to Approve the Emergency Medical Services (EMS) Director/Assistant Fire Chief and Assistant Operations Manager

Job Descriptions

The following is a verbatim transcript of this agenda item, per Mayor Campbell's request.

Campbell: "I think we have to split the next one is consideration to approve Emergency Medical Services (EMS) Director/Assistant Fire Chief and I think the other one should really go to the Airport Committee along with other stuff."

Cole: "What's that?"

Campbell: "They want to a third Airport Manager. Patty, I apologize. I didn't see you getting up there."

DeRosia: "Okay. Good evening, Mr. Mayor and Councilpersons. I'm here today to ask for consideration to approve two different job descriptions. The first one is the Emergency Medical Services (EMS) Director/Assistant Fire Chief, that's one position, and an Assistant Operations Manager. As far as the Emergency Medical Services Director, because of the changes in the Fire Department from a full-time to an all-volunteer, we are adding additional duties to the Assistant Fire Chief that's remaining. Those duties would be primarily directing the emergency medical services and will also include full supervisory duties of all volunteer EMS and firefighters. Because of these changes I have contacted the PLC Union and advised them that we will be removing that position from the union and they did not voice any objection to that. And so this job description reflects those changes.

The second one is a new job description for an Assistant Operations Manager. We currently have an Airport Manager and a Operations Manager. This would be a third party that would assist in the coverage of all the airport. The hours at the airport are from 8:00 to 7:00 and the current Airport Manager and Operations Managers are unable to cover all the shifts that are required and they believe that for the safety of the airport we need an additional Manager who's experienced in all the operational needs of the airport when they are unavailable."

Campbell: "Now you're asking for part-time?"

DeRosia: "No, it is a full-time position."

Campbell: "We're going to have three Managers?"

DeRosia: "Yes. One Airport Manager, an Operations Manager, and then an Assistant Operations Manager."

Campbell: "Don't most of the airports just have one?"

DeRosia: "I'm not sure what the rest of."

Campbell: "We went 50 years with one. I would think that if you went to the committee you'd find a way to alleviate. I know that the Airport Manager said that she did 76 hours or something in one week. If there's a way to alleviate that maybe the committee could."

Perron: "Patty, that position is with full benefits?"

DeRosia: "Yes."

Perron: "It seems like I have to bring this up about every two or three months. The City of Charlevoix has a part-time City Clerk. That job has become very technical, very tedious, very time consuming, but I'm always told by Staff and my fellow Council people, we can't afford a full-time City Clerk. But we can turn around and have three managers at the Airport, fully staffed, full-time, full benefits. I just, the priorities are, I'm just."

Cole: "I'd have to agree."

Gibson: "I agree."

Perron: "I'd have to see why that is necessary."

Campbell: "That's why I think that."

Cole: "Or if it's necessary, why is our City Clerk not a full-time position then?"

Perron: "Exactly."

Gibson: "Exactly."

Supernaw: "I asked that question at the second or third meeting when I sat on here. I couldn't believe when Joyce said she was only part-time and I agree with you. Where did the need for three out there come from Patty? A suggestion or an actual need?"

DeRosia: "Well actually there's somebody that they use right now who is not a manager, who has just, well he was just offered a position as a full-time, for a full-time position with benefits. And that leaves no one else in the airport that is capable of covering the shifts that they can't cover. It's a 7-day a week operation and they're just unable to do it, so we felt that the only way to really alleviate that issue and it's been an ongoing issue since I became the HR Assistant here. I also heard the same issues with Scott Woody when he was Manager there and we just don't have enough people to. You know there is a suggestion that maybe we reduce the hours or shut down a couple of days a week is one of the solutions that we came up with. And this was just an idea that we really felt that we needed to do in order to keep somebody in that position, we'd need a full-time position."

Gibson: "Patty."

DeRosia: "That person would also, excuse me, they would also be fueling planes. And we had a part-time position that was posted recently and we are not going to fill that, so that would be included in this position. We would not back-fill that part-time. So they would be doing office, ramping, fueling, and all that, as well as being somebody who is capable, who we found capable of covering the airport when they're not there. They're working a lot of hours, both of them and it's just, it's a solution that, we need a solution. And this was the solution that we came up with."

Gibson: "Mr. Mayor. I have no problem with the EMS job description that was discussed at the committee level, so we knew this was coming. Now this Assistant Operations Manager for the airport, where did this come from? I don't."

DeRosia: "It came up last week when we were advised that someone had been offered a position and they were giving their two week notice. So it was at that point, that it was determined that we could not cover the full seven day a week operation."

Gibson: "Well, the full seven day a week operation is 77 hours a week divided by two is 38.5 hours a week for two people."

DeRosia: "Liz, do you want to come on up?"

Gibson: "And it does calm down after summer."

Myer: "In the summer time we're 7:30 to 7:00, but we do have after hours too, when the planes come in after hours. Somebody has to come back to the airport and work and if, right now, if this person, if we don't fill this slot there's going to be Matt, myself, a secretary, and a line staff. And with the volume of traffic that we have in there physically, mentally, there's no way that Matt and I can cover 12 hours a day. We'd have to work three 12-hour days and a half day but then we'd only have one other person pumping fuel. And I don't see being able to do it, not at my age. I simply can't do it. And if something, and of course due to my age I'm not going to be around a whole lot, length of time and this person would be able to fulfill Matt's position if Matt moved up. So because right now what happens we get part-time people, they get trained up and then they move on to something else so. And when we get part-time people they have a lot of responsibility, multi-million dollar airplanes and they can go to McDonald's and make the same amount. So I'm just looking for somebody towards the future, because physically I don't see how with just the four people there's no way we're going to be able to do it. There's no way, because we don't get paid for the comp time. So we can only accrue 40 hours of comp time, Matt and I can, so anything over that we don't get paid and that's not right."

Cole: "I agree."

Myer: "I don't want to work and not get paid. Done that before in my own business and I'm not going to do it. So I can't. I mean how can you?"

Cole: "Liz, question for you. This person that left took the other job were they full-time or part-time?"

Myer: "Everybody's part-time."

Cole: "They were part-time, okay."

Myer: "Yeah, Matt and I are the only full-time people and like I said now you can say yeah, we're going to slow down, but we have snow plowing. And my question is, if everybody is out snow plowing, Lou's gonna be at the desk and who's going to pump fuel while we're plowing snow? I don't understand how. Somebody else give me a solution, but this is the only solution I see."

Heydlauff: "Mr. Mayor, couple of thoughts I wanted to throw out for Council's consideration as well. I think the discussion of the City Clerk's position being part-time is a valid one and like some of you have expressed, it was a surprise to me when I read that when I was considering this position. I think, and I think Ms. DeRosia can speak to this as well from a labor perspective, as the economy has improved, even the small amount that we've seen, the competition for labor has increased significantly especially some skilled labor and I think that puts us at a somewhat competitive disadvantage in terms of recruiting someone. I asked the City Treasurer to look at this proposal and consider that we would be removing some seasonal staffing positions, that part-time position we talked about, some of the summer season and converting that so that would be where some of the change would take place. I think it is a consideration just in how we line up our staff and we rely on some part-time people for some key positions, Ms. DeRosia

notwithstanding, our Recreation Director, our City Clerk. That does have some financial benefits for the City in terms of how we take care of things and with the staffing costs, benefit costs, etc., but it does in this case, introduce some concern about the viability or our ability to keep those people in those positions because the improvement over a part-time position obviously is that full-time benefited position. So perhaps the scheduling needs to be considered, or could be considered more. But I think just as a general thought to the question you all raised about the part-time Clerk position and how we add to that, can also be raised for other positions like this and is worth your consideration. I welcome any questions to that effect. That is one other thing to keep in mind as labor becomes more competitive – are we positioning ourselves to retain employees who are knowledgeable? God forbid that Boyne City would look for a City Clerk but I would hate to have a well-trained one and have there be that opportunity for advancement.”

Campbell: “Well I agree with that except that how much is the difference between a full-time person with all the benefits opposed to a part-time?”

Myer: “Oh I’m sorry.”

Heydlauff: “Mr. Mayor, I asked the City Treasurer to run that figure. What we did is, in consideration as I said, of reducing the seasonal staff and the summer seasonal staff, if we eliminated those two positions which are part-time and took that money and added it to this position. It would be together those equated to about \$29,000 per year that we had budgeted for those. And then we’d be eliminating the part-time position and converting it into a full-time, so there’s money budgeted there. The end result would be about \$28,000 on the salary side for that and another \$23,000 or so if you pull all benefits together. My math is off on that, but in the end the difference as the Treasurer calculated, for the overall labor cost for the airport was about a \$2,000 reduction in costs by doing this, because of the elimination of the part time positions.”

Campbell: “That’s a permanent reduction on the.”

Heydlauff: “Correct. So we would not plan, and obviously that’s something we can discuss more in the budget next year, but we would not plan this summer seasonal help and some of the other part-time things that we had allotted for previously. We’d essentially just be taking that money and putting it into the one full-time position which as I say could provide greater continuity. Obviously there are other considerations you may want to.”

Campbell: “How much would we save if we went to an FBO that wasn’t the City?”

Heydlauff: “That I don’t know Mr. Mayor.”

Campbell: “Because that’s what we had before.”

Cole: “Right. I don’t know if that’s something to look at again or not.”

Heydlauff: “I’m not sure of the history about what those costs would be. Obviously something we could explore if that’s the Council’s wish, but like I said, I wanted the Treasurer to look at this.”

Campbell: “I’d like to look at everything and see because there’s a limit on our expenses. I know you say this is \$2,000 cheaper, but that’s fine and we have to make some adjustments on another salary too I think pretty quick, so I don’t know for our money, you know.”

Kurtz: “Liz can you provide the same level of service during the summer with one person as opposed to two part-time people?”

Myer: “No, that’s why I did not fill the two seasonal positions which was like each one was \$9,200. Because by the time we train them, they have to leave. I prefer to, when I ran my operation, I went with a very good core group of people. But the situation too, is that the individual that’s leaving is also our mechanic so that means I’m either going to have to sub out the cost of the, because we have the heavy equipment so we’re going to end up paying more to have a mechanic come out to service the equipment. I do some maintenance work, but as far as the heavy equipment stuff we’re going have to farm that out and I think the overall cost is going to be greater. And like I said, with the elimination of the part-time positions that we never fulfilled and the two seasonal positions, we’ve actually eliminated three positions this year. By doing that because with the staff that we do have, now I’ve cross trained everyone as much as we could. But like I said, the problem is that if Matt and I split the week and we each work 3.5 hours and then there’s a callout at night we’re not going to get paid, so I don’t think that’s right either so.”

Kurtz: “But next summer, you think you can give the same level of service to the customers of the airport without the seasonal people by adding this position?”

Myer: “Correct. Because like I said, I don’t like seasonal people, because like I said, they’re just there for the season. But there’s no continuing training or anything. So I’ve never been a big fan of seasonal workers, even my own business so. And the thing is every year we are getting busier and busier. It’s just at some point I would like to have a good core group before I retire so.”

Kurtz: "Understood. Thank you."

Supernaw: "If this was a private business, I guess this would be for Patty or our City Manager. If this was a private business this would the activity and the revenue justify another full-time position? Are you familiar with your revenue out there yet Mark?"

Heydlauff: "I'm familiar with people who know the revenue out there and I did discuss that with the City Treasurer because she looks at the accounts regularly. And when I asked her about, I asked her to calculate that. She believed that where revenues and expenditures for this year that this would fit within the budget. It's not; she didn't believe it was going to be a dramatic savings. She did not believe it was going to push us over. She believed it would be in line if things go as they have gone from April 1st to now. That's not to say, you know, August and September could be odd months. That is yet to be known, but she believed that where we are right now this would be reasonable. Like I say, purely from a dollars and cents perspective, that doesn't take into account any other circumstances."

Supernaw: "And that savings of \$2,000 sounds, like sure do it. Is it that simple?"

Heydlauff: "I would caution Council on that. As I said from the Treasurer's perspective, she didn't believe that it was a hard fast yes it's a clear \$2,000 savings. She believes it's within a very small margin of error, if you will, one way or the other, but it was not a drastic impact one way or the other."

Supernaw: "You're new here Mark, I love that phrase. I'm still new, too. Do you recommend this?"

Heydlauff: "I believe that this does alleviate and provide some more continuity in Staff there. Or could, as I said, purely, if in the perspective of it being difficult to recruit multiple part-time people, you save yourself the ability to essentially if you want to go out and spend the time to recruit three part-timers. If you can get rid of the recruitment cost, the advertising cost and go with one person that likely you could sustain over the long term you could. That being said, beyond what I've learned this past week I claim no great expertise, but I believe Ms. DeRosia and Ms. Myer have reviewed this and so that's my best sense at this point."

Supernaw: "Ms. DeRosia, you're the Human Resources. You recommend it?"

DeRosia: "Yes I do."

Supernaw: "Thank you."

Gibson: "Mr. Mayor, I have a question. I know that activity at the airport lightens up after a certain point after the summer so what happens then, when we have three full-time people?"

Myer: "Well we still have."

Gibson: "Don't your hours change? You're going to be there from 8:00 to 7:00."

Myer: "Well a lot of it depends on Island Airways, but through November I believe, because I just started in November of last year, it depends on whether they have a 6:00 flight. Okay, 5:30 flight. So we're basically covering from 7:30 a.m. to 6:00 p.m. if there's a 5:30 flight say through November. So we have to cover that, but then I get back to the snowplowing because if we're up, if we have a crew out there plowing snow for eight hours and then we have to open, the airport has to be open that same day you know. I guess you don't understand what I'm saying. But we have to cover the snowplowing at night plus the operation of the airport during the day so we go."

Gibson: "I understand what you're saying."

Myer: "So like I said it's not like from 7:30 to 5:00 say or 7:30 to 6:00 in the winter time. If there's a snowstorm we're going to work 7:30 to 6:00 plus we're going to work 6:00 to 1:00 or 3:00 in the morning till whatever. And then we still have to be open the next day and its, that's the issue, is that with the part-time people we can only work them so many hours a year. And last year I believe it was 980 but this year it was 1180, but the issue is when their hours are up for the week then we're like well 'Matt I guess it's me and you'. And again once we get anything over 40 hours we don't get paid for and we can only accrue so much comp time. And again that's not fair to either one of us and I can't expect Matt to work and not get paid this as well as myself. But so once their hours are up say by Wednesday, if we have a big snowstorm, then we still got Thursday, Friday Saturday, Sunday to cover. What are we gonna do? So we just hope it doesn't snow even though with the part-time people we had last year. So it's a real issue juggling hours all the time."

Cole: "Makes sense."

Kurtz: "Mark, this \$2,000 savings, it took into account seasonal people not being re-hired and it took into account the part-time people positions being eliminated, it also took into account the fact that during the winter we don't use the seasonal people?"

Heydlauff: "That's correct."

Kurtz: "Okay, thank you."

Perron: "Mark, just for the record, this would be an example of an agenda item we could have received more information on."

Heydlauff: "Yes sir. And is it something; is there other things you'd like to have?"

Perron: "No I'm just pointing out between you and Liz and Patty, you know, we just got a whole bunch of information that we just had one or two sentences there."

Heydlauff: "Yes sir and my apologies."

Perron: "Wow. New manager."

Gibson: "Excuse me. I believe that this should have gone to the Advisory Committee for review first. That would normally be how I would think that would happen. The EMS job description we knew that was coming, but this was a, well we didn't know and there wasn't enough information."

Supernaw: "Well in defense of Mark this came from you Patty, right?"

DeRosia: "It came up on my last day last week as I was getting ready to leave. They brought it to me and they were in panic mode. We needed to do something quickly and so we got, I know, the Treasurer and her Assistant was there after hours. As was I trying to get all of the information gathered so we could determine whether it was doable or not. So that's the reason it came up so suddenly. It's because we've only got two weeks and we needed to get it into the Council, to you guys ahead of time. So that's the reason you didn't get probably a lot of warning, because we didn't either."

Perron: "And also, you only had 29 hours."

DeRosia: "That's exactly right and I went over a little bit, yeah so."

Cole: "But that was when the notice was given by the employee."

DeRosia: "Yes, so that's why it was just."

Cole: "No, I understand that totally."

DeRosia: "We barely got it in in time. In fact Linda let me extend the deadline to get it to you guys. So we had to create the position as well, position description, so."

Supernaw: "Mr. Mayor I'd like this issue to stay on the Council table. A committee doesn't need to be making decisions like that, even recommendations. This is something we should all be involved in."

Campbell: "Well it would have to eventually come here anyhow."

Supernaw: "I don't think it should even leave."

Cole: "No, not when it is needed quickly."

Supernaw: "In fact if all discussion is done, I'm ready to make a motion."

Spencer: "I'll be real quick Mayor, if I could. As you know I update the City website and it's very frequent that we put up seasonal positions and replacing positions at the airport, very frequent. We can't seem to keep people in those positions. And so if this ultimately looks like it's going to save us money, the airport can run smoothly still and we're not going to go over budget especially in lieu of Liz's age and the fact that she's not going to be around forever, if we can get somebody trained so there is succession planning which I think is important for the airport, I think we need to make that move now. And as we mentioned that we keep bringing up the committee, I think the committee needs clear guidance on what they're supposed to be doing and what they shouldn't. And typically committees like that as far as I know, don't really get involved with personnel matters. And so if there is any speed to this because of the necessity of the airport and the fact that it's still busy right now. So I do support Mark and Patty and Liz's decision to do this and do it soon. It's needed."

Cole: "Thanks, Mike."

Supernaw: "Thanks, Mike."

Kurtz: "Thanks Mike. Don't we need public comment before we make a motion?"

Campbell: "Oh we do, yeah."

Supernaw: "Yeah, absolutely."

Campbell: "Well we can do it either way, but you have to have public comment. Is there any public comment? Thank you very much. I'll close it to the public. And then we come back to Council for what you want."

Supernaw: "Any other discussion?"

Campbell: "Well discussion or a motion. I think we have to, Joyce do we have to split them with a motion?"

Golding: "Because you're, I think because we're talking so much on the airport position I think maybe we should split them so that you can make two separate decisions. Don't lump them together. Might be a little bit easier."

Campbell: "So I guess we'd need the motion."

Supernaw: "One quick question too, in regards to the Fire Department stuff. Did the language get in place yet for the November charter vote to change that to?"

Golding: "There's been nothing done."

Supernaw: "Do we need to get, to change Gerard's title. Can't believe we have to vote on that."

Golding: "There's been nothing done."

Supernaw: "I'll get with you. Can you do that?"

Golding: "Usually it's the City Manager's office who has done that before."

Supernaw: "So you've got that Mark, to change the title of the new. I make a motion to approve the Emergency Medical Services (EMS) Director/Assistant Fire Chief as recommended by the Human Resources Department."

Cole: "Support."

Campbell: "Is there any discussion? Please call roll."

Golding: "Cole?"

Cole: "Yes."

Golding: "Supernaw?"

Supernaw: "Yes."

Golding: "Porter?"

Porter: "Yes."

Golding: "Kurtz?"

Kurtz: "Yes."

Golding: "Perron?"

Perron: "Yes."

Golding: "Gibson?"

Gibson: "Yes."

Campbell: "Okay, that leaves us the other Assistant Operations Manager job description and I think we already had the audience and nobody said anything. I'll give it one little shot. If there's no, anybody got a comment or question? Close it to the audience. What's your pleasure?"

Supernaw: "I'll make a motion that we accept the recommendation of the Human Resources Department for the appointment of an Assistant Operations Manager, the job description also for that job."

Perron: "Support."

Campbell: "Any discussion? Please call roll."

Golding: "Cole?"

Cole: "Yes."

Golding: "Supernaw?"

Supernaw: "Yes."

Golding: "Porter?"

Porter: "Yes."

Golding: "Kurtz?"

Kurtz: "Yes."

Golding: "Perron?"

Perron: "Yes."

Golding: "Gibson?"

Gibson: "Yes."

Campbell: "Thank you Patty."

Cole: "Thanks Patty."

VIII. Introduction and Initial Actions Relating to Ordinances or to Resolutions That Require Publication or Hearings Prior to Final or Further Action

None.

IX. Resolutions

A. Consideration to Approve a Resolution Verifying Non-Profit Status for a Charitable Gaming License

Motion by Councilmember Kurtz, second by Councilmember Gibson, to adopt Resolution 2015-08-01 Local Governing Body Resolution for Charitable Gaming Licenses, as follows:

**CITY OF CHARLEVOIX
RESOLUTION 2015-08-01
LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES**

At a regular meeting of the City of Charlevoix City Council called to order by Mayor Gabe Campbell on August 3, 2015 at 7:00 p.m. the following resolution was offered:

Moved by Councilmember Kurtz and supported by Councilmember Gibson that the request from The Rayder Gridiron Club of Charlevoix, County of Charlevoix, asking that they be recognized as a nonprofit organization operating in the community for the purpose of obtaining charitable gaming licenses, be considered for approval.

RESOLVED, this 3rd day of August, 2015 A.D.

Resolution adopted by the following yeas and nays vote:

Yeas: Cole, Supernaw, Porter, Kurtz, Perron, Gibson

Nays: None
 Absent: None

X. Ordinances
 None.

XI. Miscellaneous Business

Councilmember Cole extended kudos to Superintendent Elliott and his department saying “by Sunday morning at 8:00 a.m. you didn’t know there was a festival downtown”. He also thanked Dan Barron.

Councilmember Gibson discussed complaints she received regarding ongoing yard/garage sales. Planner Spencer indicated that the duration of yard sales is not addressed in the Code Book. He suggested that a permitting process may work. The general consensus of Council was to direct Planner Spencer to bring forward draft language which addresses this situation.

Councilmember Porter questioned the status of the Phillips property. Planner Spencer explained to Council that the children of the property owner are in litigation thus preventing the pending sale of the property. He plans on dedicating some time to the issue.

Councilmember Gibson requested that Planner Spencer investigate a concerned email she received regarding beachfront property near the hospital.

Councilmember Supernaw asked City Staff to look into the parking spaces at the end of State Street which cause traffic concerns. He said that a summer resident suggested that cars parked on the hill should turn their wheels in like they do in San Francisco.

Councilmember Supernaw reminded the Mayor that Council agreed to have two work sessions per year and he would like to schedule the second work session. Councilmember Supernaw also requested that the joint budget meeting with the DDA be scheduled. He suggested that meetings between Council and the DDA throughout the year would be valuable.

Council welcomed City Manager Heydlauff aboard.

XII. Audience - Non-agenda Input (written requests take precedent)

Airport Manager Myer thanked Council for approving the Operations Manager job description. She stated that she has received one letter of intent to build a hangar and is in discussion with three other individuals interested in building also. Airport Manager Myer is looking forward to working with Council on this project. She replied to Councilmember Supernaw that there was no ordinance stating that jets could not land after 10:00 p.m. Airport Manager Myer indicated that she will be working on minimum standards for the airport during the off season and as airport traffic increases, noise abatement procedures should be implemented.

Bob Timms asked Council what they thought of the new intersection at State and Antrim Streets. Mr. Timms felt that the yellow paint was excessive.

Don Seeyle stated that when there is a delivery truck parked on Antrim Street for the grocery store, visibility is difficult coming east on Antrim.

XIII. Adjourn

The Council agreed to adjourn. Meeting adjourned at 9:53 p.m.

Joyce Golding City Clerk Gabe Campbell Mayor

Special Accounts Payable – 07/22/2015			
AT&T LONG DISTANCE	47.88	METLIFE SMALL BUSINESS CENTER	695.85
AT&T MOBILITY	73.39	PREIN & NEWHOF	37,631.39
CHARLEVOIX STATE BANK	6,122.09	PRIORITY HEALTH	40,094.00
CHARTER COMMUNICATIONS	6.72	SPOK INC	9.99
DELTA DENTAL	4,214.69	VERIZON WIRELESS	56.72
DEVERE CONSTRUCTION COMPANY	1,154,976.83	VISION SERVICE PLAN	529.66
DTE ENERGY	1,538.14		
GREAT LAKES ENERGY	211.98	TOTAL	1,246,209.33

Regular Accounts Payable – 08/04/2015

AIRGAS USA LLC	175.28	JOHNNY MAC'S SPORTING GOODS	249.04
ALL-PHASE ELECTRIC SUPPLY CO.	119.79	KEWEENAW EXCURSIONS	150.00
AMERICAN WASTE INC.	2,278.80	KIRINOVIC, THOMAS	41.00
AVFUEL CORPORATION	38,419.56	KLOOSTER, ALIDA K.	41.00
BARUZZINI GENERAL CONTRACTORS	600.00	KSS ENTERPRISES	3,083.57
BEAR EARTH HERBALS	12.00	LOTTIE'S BAGELS	119.00
BEEGEN, REID	51.77	MAXX SUNGLASSES	251.84
BERG, REBECCA	159.00	McGINN, KELLY	41.00
BLACK PEARL PLATINUM BRAND	23.00	MDC CONTRACTING LLC	875.00
BRADY'S CARPET CLEANING	345.00	MESSER, JACK	15.40
CHARLEVOIX AREA CHAMBER OF COMMERCE	6,700.00	MICHIGAN MUSHROOM MARKET LLC	27.00
CHARLEVOIX DISTRICT LIBRARY	15,000.00	MILLER, ANN	88.20
CHARLEVOIX SCREEN MASTERS INC	458.00	MYER, ELIZABETH A.	41.00
CHARLEVOIX TOWNSHIP	15.23	NEOFUNDS BY NEOPOST	21.01
CHEMICAL SYSTEMS INC.	1,872.00	NETSOURCE ONE INC.	24.00
CHERRINGTON ENTERPRISES INC.	328.54	NORTHERN MICHIGAN DUST CONTROL	480.00
CINTAS CORPORATION #729	274.50	NORTHERN MICHIGAN REVIEW INC.	307.29
CITY OF CHARLEVOIX - MISC	15,466.45	NORTHERN SAFETY CO INC	163.07
CIVIC SYSTEMS	9,154.00	NORTHWEST DESIGN GROUP	8,225.79
COOK FAMILY FARMS	155.00	OLSON BZDOK & HOWARD	3,518.50
DCASSESSING SERVICES	4,371.08	OUDBIER INSTRUMENT CO	4,963.00
DeROSIA, PATTY	41.00	PIGS EATIN' RIBS	22.00
DHASELEER, CARL	113.00	PINE HILL NURSERY	288.00
DOAN, GERARD	41.00	PLUNKETT & COONEY	2,620.00
DORNBOS SIGN INC.	521.27	POND HILL FARM LLC	205.00
DOYLE, ANNIE	41.00	POWER LINE SUPPLY	446.13
EJ USA INC.	2,699.09	PREFERRED WASTE 2 LLC	425.00
ELLIOTT, PATRICK M.	41.00	PRESTON FEATHER	88.20
ETNA SUPPLY	2,024.24	QUICK CARE MEDICAL CENTER	80.00
EVANS, HAL	41.00	RESIDEX LLC	1,325.52
FARMER WHITE'S	118.00	RICK-BIDDICK, MICHELLE	899.67
FIDELITY GOLF SERVICES LLC	210.00	ROAD WEASEL ENTERPRISES LLC	25.00
FISHER SCIENTIFIC	435.55	SCHWAGER, EDWARD J.	41.00
FRAME, MARY	110.00	SECURITY SANITATION INC.	285.00
GALLS AN ARAMARK COMPANY	137.56	SHORELINE POWER SERVICES INC.	352.50
GERBER HOMEMADE SWEETS	59.00	SIEGRIST, DAVID	6.00
GOLDING, JOYCE	41.00	SMOKE ON THE WATER	89.00
GORDON FOOD SERVICE	111.22	SPARTAN DISTRIBUTORS INC	610.11
GRAINGER	738.00	SPENCER, MICHAEL	41.00
GREAT LAKES PIPE & SUPPLY	207.79	STATE OF MICHIGAN	267,443.46
GRIFFIN BEVERAGE CO	43.20	STATE OF MICHIGAN	130.00
GRP ENGINEERING INC.	5,714.48	STEIN, DONNA	21.56
GUNTZVILLER, RHONDA	217.00	SWEM, DONALD L.	41.00
HACH COMPANY	1,186.34	T & R SERVICE INC	15.00
HANKINS, SCOTT	41.00	TEUNIS, STEVEN	41.00
HEID, THOMAS J.	41.00	THAT FRENCH PLACE	47.00
HEINZMAN, WAYNE	29.32	TRI-TURF	496.74
HEP'S HOMEBAKED GRANOLA	24.00	UP NORTH PROPERTY SERVICES LLC	6,321.00
HEYDLAUFF, MARK L	41.00	VAN'S BUSINESS MACHINES	75.00
HI-LINE	228.03	VILLAGE GRAPHICS INC.	368.40
HOLIDAY COMPANIES	113.16	WELLER, LINDA	41.00
HUGH'S EXCAVATING LLC	1,325.00	WILLCOME TREE SERVICE	320.00
HURT, JOE	14.58	WILLIAMS, GLORIA JEAN	18.00
INTERSTATE ALL BATTERY CTRS	340.89	WINNELL, CHARLES	1,550.00
JERRY'S TIRE	568.32	WORK & PLAY SHOP	938.12
JOHN CROSS FISHERIES	66.00	WYMAN, MATTHEW A.	41.00
		TOTAL	422,186.16

ACH Payments – 07/20/2015 – 07/31/2015

MI PUBLIC POWER AGENCY	19,136.35	STATE OF MI (WITHHOLDING TAX)	5,821.04
MI PUBLIC POWER AGENCY	280,666.21	VANTAGEPOINT (457 ICMA PLAN)	13,452.35
MI PUBLIC POWER AGENCY	14,502.39	MERS (DEFINED BENEFIT PLAN)	41,093.95
IRS (PAYROLL TAX DEPOSIT)	39,386.68		
ALERUS FINANCIAL (HCSP)	370.00	TOTAL	414,428.97

Tax Disbursement – 08/04/2015			
CHARLEVOIX COUNTY TREASURER	220,509.90	CHARLEVOIX PUBLIC SCHOOLS	5,766.76
CHARLEVOIX PUBLIC SCHOOLS	341,379.66	CITY OF CHARLEVOIX - TAXES DUE	135,113.97
CHARLEVOIX PUBLIC SCHOOLS	54,796.73	CITY OF CHARLEVOIX/DDA	300,061.48
CHARLEVOIX PUBLIC SCHOOLS	2,593.86		
CHARLEVOIX PUBLIC SCHOOLS	26,676.39	TOTAL	1,086,898.75

PAYROLL: NET PAY
Pay Period Ending 07/25/2015 – Paid 07/31/2015

WELLER, LINDA JO	1,620.71	MCCLANATHAN, BRANDON R.	529.96
GOLDING, JOYCE M.	1,059.15	KIRINOVIC, THOMAS F.	651.19
DEROSIA, PATRICIA E.	1,012.89	STEBE, LAURA A.	112.90
DOYLE, ANNE E.	1,385.05	FORRESTER, KATHERINE A.	544.88
LOY, EVELYN R.	1,017.73	AMSTUTZ, LINDA J.	991.91
KLOOSTER, ALIDA K.	1,447.08	DUTCHEK, ROBERT G.	237.86
GOLOVICH, KAREN J.	869.22	SABSOOK, SARA E.	476.35
SPENCER, MICHAEL D.	2,238.33	BROSIO, VALERIE L.	331.01
SPENCLEY, PATRICIA L.	1,519.45	RUDOLPH, TRISTAN M.	719.99
PANOFF, ZACHARY R.	626.91	GOLOVICH, SAWYER P.	658.53
MILLER, FAITH G.	83.87	ECKHARDT, LOGAN R.	225.53
LEESE, MERRI C.	262.02	WEBB, MICHAEL B.	473.23
MCGINN, KELLY A.	1,585.98	PARKER-DROST, HERO	512.56
DOAN, GERARD P.	2,067.13	HOLECHECK, JENNACA R.	537.42
SHRIFT, PETER R.	1,292.52	WELLS, IVY L.	260.13
SCHLAPPI, JAMES L.	1,240.35	ROCKAFELLOW, SARAH C.	520.43
UMULIS, MATTHEW T.	1,408.19	HEID, THOMAS J.	1,252.44
HANKINS, SCOTT A.	2,056.87	STEIN, DONNA E.	260.29
ORBAN, BARBARA K.	1,350.51	BOOTHE, STEVEN A.	269.95
TRAEGER, JASON A.	1,211.81	GRUNCH, RONALD J.	177.75
WARNER, JANINE M.	851.52	RYPSTRA III, BART	281.58
EVANS JR, HALBERT K.	1,442.49	DAVIS, RONALD L.	277.01
GODDARD, RYAN D.	1,329.08	MACLEOD, SAMUEL R.	358.82
JOHNSON, KYLE W.	811.71	DAKROUB, JOSEPH E.	157.25
BINGHAM, LARRY E.	820.38	MASSON, DONALD J.	169.42
VANLOO, JORDAN C.	630.43	MYER, ELIZABETH A.	1,622.72
TELGENHOF, WILL G.	602.65	VANLOO, JOSEPH G.	682.99
GREYERBIEHL, KELLY M.	715.23	WYMAN, MATTHEW A.	1,121.47
ROLOFF, ROBERT P.	1,850.80	SCHRADER, LOU ANN	697.36
RILEY, DENISE M.	467.76	SCHWAGER, EDWARD J.	882.07
TEUNIS, STEVEN L.	1,681.68	BOSS, RYDER S.	711.99
WURST, RANDALL W.	1,605.96	RILEY, CASEY W.	416.97
MAYER, SHELLEY L.	1,557.07	JONES, LARRY M.	257.27
HILLING, NICHOLAS A.	1,670.49	TRAVERS, MANUEL J.	242.77
MEIER III, CHARLES A.	1,418.03	RILEY, DANIEL A.	604.91
ZACHARIAS, STEVEN B.	1,576.77	TIMMS, ROBERT N	46.17
NISWANDER, JOSEPH F.	1,283.76	EVELEIGH, MARY J.	46.17
EATON, BRAD A.	1,777.65	KLOOSTER, PATRICK H.	778.96
WILSON, TIMOTHY J.	1,926.77	LABELLE, DAVIS B.	560.63
LAVOIE, RICHARD L.	1,839.22	KLINGER, LUCAS D.	659.35
STEVENS, BRANDON C.	2,030.75	SPEGELE, GREYSON H.	665.89
DRAVES, MARTIN J.	1,547.85	GREENE, GLORIA C.	602.65
BROWN, STEPHANIE C.	1,023.65	KLINGER, BRADLEY W.	453.52
ELLIOTT, PATRICK M.	1,762.40	DAVIS, LEAH R.	602.65
SCHWARTZFISHER, JOSEPH L.	1,457.34	SWEM, DONALD L.	1,808.24
WELLS JR., DONALD E.	1,491.23	WHITLEY, ANDREW T.	1,489.64
BRADLEY, KELLY R.	1,332.35	MORRISON, KEVIN P.	1,539.47
HART II, DELBERT W.	735.98	HODGE, MICHAEL J.	1,491.57
JONES, ROBERT F.	1,421.21	JOHNSON, STEVEN P.	1,607.05
DORAN, JUSTIN J.	1,810.49	BISHAW, JAMES H.	689.39
MANKER JR, DAVID W.	493.95	HERRIMAN, COBY M.	546.73
MANKER SR, DAVID W.	723.35	HINDLE, LYDIA R.	572.50
NEUMANN, DANA L.	572.29	MACGILLIVRAY, RAYMOND L.	488.25
BECKER, MICHAEL S.	618.03	HALL, CHASE D.	581.36
SHEPARD, ZACHARY N.	574.88	PETERS, MEGAN M.	300.06
BUTLER, SEAN C.	645.43	CURTIS, DENNIS E.	950.29
HAWKINS, JAMES S.	454.69	GILL, DAVID R.	1,073.31
MCGHEE, ROBERT R.	1,109.81	TODD, RICHARD D.	326.40
STANTS, JACOB W.	550.74		
BLOOMER, GABRIELLE J.	498.81	TOTAL	108,179.61

PAYROLL: TRANSMITTAL – 07/31/2015

4FRONT CREDIT UNION	218.46	CHEMICAL BANK	150.00
AMERICAN FAMILY LIFE	145.20	COMMUNICATION WORKERS OF AMER	477.94
AMERICAN FAMILY LIFE	271.20	MI STATE DISBURSEMENT UNIT	401.83
CHAR EM UNITED WAY	32.00	PRIORITY HEALTH	1,558.16
CHARLEVOIX STATE BANK	1,021.16	TOTAL	4,275.95