

**SEPTEMBER 11, 2012
REGULAR MEETING**

RECORD OF THE PROCEEDINGS OF THE REGULAR BOYNE CITY COMMISSION MEETING DULY CALLED AND HELD AT BOYNE CITY HALL, 319 NORTH LAKE STREET, ON TUESDAY SEPTEMBER 11, 2012 AT 7:00 P.M.

CALL TO ORDER

Mayor Ron Grunch called the meeting to order at 7:00 p.m. followed by the Pledge of Allegiance.

Present: Mayor Ron Grunch, Mayor Pro-Tem Gene Towne, Commissioners Derek Gaylord, Laura Sansom and Tom Neidhamer

Staff: Andy Kovolski, Scott McPherson, Michael Cain, Dan Meads, Hugh Conklin, Dennis Amesbury, Jeff Gaither and Karen Seeley

Others: There were 15 citizens in attendance, including representatives from the Petoskey News Review and Charlevoix County News

CONSENT AGENDA

2012-09-125

Moved by Towne

Second by Sansom

2012-09-125-A

Approval of the August 28, 2012 regular City Commission minutes as presented

Ayes: 5

Nays: 0

Absent: 0

Motion carried

CITIZENS COMMENTS

Mark Dole, 607 E Main Street: It' not Kirtland's fault the City doesn't have a noise ordinance. For the last three years we haven't had a noise ordinance, yet the blame seems to be placed on Kirtland. The Planning Department and the Planning Commission should have addressed that issue at their October 2009 meeting shortly after it was declared unconstitutional. Now we have a fire works ordinance that is no good as of January 1, 2012. That's two ordinances that need fixed and how many more can be challenged with the way they are written, so generally. The number one goal for the citizens is family supporting jobs; the City cannot have reliable jobs and be a tourist town at the same time. We need industry to establish solid, stable jobs which will establish better growth. As far as the aesthetics' of the smoke stack in a state certified industrial park, it's a lot better than having a dock sticking out in the lake every hundred feet as far as I am concerned. You can bet there are a lot of companies out there that are watching what is happening and are scratching Boyne City off their list as a place to expand or develop. Who thought that putting a housing development above and behind property that is zoned commercial/industrial wasn't a problem waiting to happen. In February you were given a sample noise ordinance that a private citizen paid for, did any of you read it? If you want to talk about the bad stuff coming out of the stack, I can point out a few wood stove chimneys here in town that has worststuff coming out. If you are getting tired of Kirtland, I'm sure the feeling is mutual; they have worked very hard to bring jobs into this town and have been nothing but harassed by the City since opening their doors.

Joan Miller, has lived in the area for 43 years, I come to many events in Boyne City, as people are encouraged to do. I spend money here and enjoy Lake Charlevoix. I was attending the 4th of July parade, and brought my parents who are 95 & 97 and live here in Boyne City. We sat in front of the Huntington Bank and the Fire Department happened to be the last entry to come through the parade. My mother had been hit by spray by a couple other parade entrants and I stood up and waved my hands and got the gentlemen's attention, or at least I believed I had gotten his attention; and kind of did the "cut throat" gesture, meaning not to spray in this area, he looked at me and sprayed. My cell phone was sitting in my lap at the time and I thought I had gotten it out of the line of fire quick enough for it not cause any damage, only to learn a few days after that my cell phone was acting strange. In looking at the inside of my cell phone, I discovered that the little white dot had turned red, which is an indication of water damage. With water damage, no warranties or insurance are valid, so I have been in pursuit, telephone communications and faxes to various individuals. I have talked to the municipal insurance agent, the claims adjuster, and all I am asking is that my phone be replaced. The person who sprayed it had intentional disregard. An old gray haired lady sitting next to me, I guess it is considered "fair play". I know these people who are encouraged to come to town don't expect to be victimized by these antics. If I would have even guessed that this would happen, I would not have come to the parade. Through this experience since July 26th, it has been a real harsh reality. I am involved with another festival event that deals with the public and parade entrants and we have a real hard line with rules and regulations, if they violate it, they are responsible. If we don't tell them they can't than the festival is responsible. I am hopeful the City of Boyne City, the Chamber of Commerce, the Fire Department, the fireman that was on the back of the truck, however it may be, will step to the plate and do the right thing and realize their careless disregard and disrespect for the public. Someone needs to step to the plate and pay for it. The people who have control of that have my name, address and phone number and can get in touch with me. Mayor Grunch: I as a commissioner did acknowledge receiving your letter and I believe your claim and request was submitted to our insurance agency and was denied. City Manager Cain corrected that it is still under review. Ms. Miller said she had talked to the agent and they requested more information from city and need to get that back. City Manager Cain reported that they were assembling the information today. It is still an open matter and I will report back to the commission when it is resolved, and someone will be in touch with Ms. Miller.

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Ron Crozier, 1121 Crozier Crest: I see the new pay loader out front and my issue with the City is, if the city vehicles were washed and maintained we wouldn't have to pay \$92,000 for a new loader, maybe this is something that could possibly be done. The other issue, again, we had Labor Day weekend and people with dogs at the Memorial that are not cleaning up after them and my wife and I are tired of cleaning it up. There is an ordinance against, if the city police don't want to write tickets for the ordinance, something needs to be done. I brought this to the attention of the City Commission and they have done nothing and we are tired of it. The Memorial Committee is working with vertis on the oval at the Memorial, to make it look a lot more presentable than what it is. The Memorial is a wonderful thing for the City of Boyne City and we want it to look prestige.

CORRESPONDENCE

Mayor Grunch read a thank you letter from Nancy Quigley, whose nephew, Mathew Mathew Huffman died from severe head injuries suffered in a skateboarding accident while here on vacation. She thanked the Boyne City EMS for being prompt, professional and kind and made a donation of \$500 to the Boyne City EMS Equipment Fund.

The Commission received a letter from Grenetta Thomassey, Program Director, Tip of the Mitt Watershed Council regarding the Strom water Control ordinance that we discussed at our last meeting.

Mayor Grunch read a thank you card from the 4-H swim school program for the generous donation.

Commissioner Neidhamer inquired in the regards to the letter from Grenetta, are we going to revisit that issue? City Manager Cain:

Procedurally with regards to Commissioner Neidhamer's question, the Commission made a determination at the last meeting and that determination stands. The Commission can at anytime consider a motion of reconsideration. Under Roberts Rules of Order, it requires one of the people that voted in support of the motion to make that motion and be supported by another commissioner. Until the commission chooses to take that step, the matter is currently resolved. Mayor Grunch: I think we have all had time to review it and I think the ordinance is well written and covers 99% of the circumstances that could occur. We do have the option of adopting the ordinance ourselves. We could do it by Roberts Rules of Order and bring it to another Commission meeting. We could adopt the ordinance, but not the oversight of the County. Commissioner Neidhamer said he would be willing to reopen the issue as a courtesy, as the letter is asking us to reconsider supporting the ordinance. But if there has been no change of heart, leave it as is. City Manager Cain: Based on what staff heard at the last Commission meeting, my understanding was there was not much opposition with the ordinance, but the question with who is enforcing the ordinance. We were going to let the dust settle and revisit the ordinance and make sure there weren't any issues with regards to who would provide the oversight, then bring it back to the Commission. What I heard from the majority of you is that some ordinance was appropriate but without County oversight, at any level.

Mayor Grunch: That's a clarification of what I understood too.

Commissioner Gaylord: I indicated my feelings not only about the County oversight but about the ordinance itself, it is not specifically for Boyne City. Based on the questions I asked and the information I received, in my opinion we don't need this county ordinance. Mayor Grunch: Is it a good starting point? Commissioner Gaylord: In the last six years we have had no issues. Boyne City does the right thing and we rely on guidance from our engineers.

Commission Sansom: We had good discussion last time and I'm not opposed in a few months if you want to bring it back. It's ok as it is, but we can re-visit it in the future. Mayor Pro-Tem Town: I'm ok with leaving it as.

Commissioner Sansom: Is anyone planning on attending the meeting on the 18th? The letter asks us to send a representative.

City Manager Cain: At this time I don't feel it's appropriate given the City Commissions decision at the last meeting.

The City Manager Reported:

- Our new loader is on display, it arrived just before Labor Day and has been at work since. We will be adding the City logo and stripe lights.
- We had a very successful Labor Day weekend
- There was a good turnout for the Ribbon Cutting at Precision

CITY MANAGERS REPORT

Edge. Thank you to all that attended.

- This week is the last Friday for Stroll the Streets for the season
- The Hannah Street and Park Street projects are both making good progress, and remain on schedule. Consumers Energy is putting the pieces in place to extend the underground along Park Street. Main Street has been considering extending the underground along Ray Street
- The Household Hazardous Waste this past Saturday was well attended
- We continue with the second week of the Rubbish pickup which wraps up for the year next week
- Thursday the 13th the Chamber is hosting the State of the Community at Somerset Pointe
- Summer taxes are due Friday the 14th by 5:00 pm, without penalty

Commissioner Sansom: Main Street board is considering extending the underground; on Ray Street to where? Basically the entire section of Ray Street. They will be looking at some plans and additional estimates from Consumers as to the anticipated cost to fund the project.

**REPORTS OF OFFICERS,
BOARDS AND STANDING
COMMITTEES**

Draft minutes of the August 2, 2012 Main Street Board Meeting; the August 2, 2012 Parks and Recreation Commission meeting; the August 20, 2012 Planning Commission meeting and the August 23, 2012 Airport Board meeting minutes were received and filed.

UNFINISHED BUSINESS

Kirtland Update: City Manager Cain: The City Commission on February 14, 2012, unanimously approved a motion which, referring to Kirtland Products, state, in part, that we should "keep as a standard matter of unfinished business at every Commission meeting..." As you are aware, Kirtland Products is scheduled to go before the Planning Commission at its Monday, September 17th meeting at 5:00 p.m. At the last Commission meeting there was some discussion about whether Kirtland Products should continue to be on the City Commission's agenda since the action was taken by the Commission to refer this matter to the Planning Commission. If the City Commission wishes to remove this item as a regular item from future agendas a new motion, removing Kirtland Products as a standard matter of unfinished business would be in order. There are representatives from Kirtland here. We did get an email with an update of their status today, which I forwarded to you. Since our last meeting, I received petitions with another 239 signatures in support and one or two against as well. There will be some things going on with Kirtland in the next couple of weeks including what action the Planning Commission takes if any, on Monday. If you want this to stay on the agenda, just leave it there, if you feel its time to take it off, a motion to do so would be in order. Mayor Grunch: Is it the wish of the Commission to get updates at each Commission meeting? Commissioner Sansom: I asked if procedurally, once we voted to send it back to Planning should we leave it here as discussion as well? Or is that a conflict? If it is on the agenda, people show up to the City meetings to discuss it and all we can do is listen. I don't mind having it on as an update, but I just don't want to mislead the public thinking we will have a debate, when the whole issue is going to Planning. Commissioner Gaylord: City Manager Cain do you feel this body has met our legal, moral and ethical obligations regarding this matter? I can only speak to the legal aspect of the question, this body was used as a convenient place to bring the information to, but the

Commission never had any direct authority, which has been in the hands of the Planning Commission. With regards to additional studies and working with the citizens committee, the City Commission did have some involvement with that. I feel the City has gone above and beyond with regards to the Kirtland situation to address the matter on both sides.

Commissioner Gaylord: I agree with Commissioner Sansom, if the citizens see Kirtland on our agenda, they are going to want to have discussion. Public comment is always welcome; it just may be a little misleading as an agenda item. It could come up under the Managers Report.

Commission Sansom: this issue will be going before the Planning Commission on the 17th; we should wait and deal with it at the next meeting.

City Manager Cain: Staff will keep it on the agenda until a motion is made to remove it.

Mayor Pro-Tem Town: I believe it should stay; I am very interested in any improvements Kirtland makes and would like to hear the results of the stack test.

Commissioner Neidhamer: I'm comfortable with leaving it on until further discussion.

Mayor Grunch: I am in agreement of keeping it on also, keeping the commission updated is very important.

Leon Tupper of Kirtland Products updated the Commission since the presentation at the last meeting. The installation of the first phase of equipment was completed a couple weeks ago and we did monitor for the impacts of that as it relates to the specific pulsation and it appears to have been corrected by the install of the first phase of equipment. The second customized equipment scheduled to be installed is available as early as the end of this week or the first of next week at which time that will be installed and will complete all of the recommendations of the Kodiak Group based on the data provided by the RSG Noise Analysis. We have done our own evaluation of the impacts of that equipment, as well as consulting with a couple neighbors who have complained about the noise and have concluded that the equipment has done as designed as far as the pulsation. We are proceeding with the MDEQ stack testing, which started the 10th, and will continue until Thursday. We've had preliminary results indicating that the VOC (Volatile Organic Compounds) are substantially below the permitted levels. They will continue to conduct testing and the completed published report on the website in approximately two months. We are operating and have been operating on a twenty four hour basis, and will continue to operate to meet the guideline test standards required through the end of this week.

Commissioner Sansom: Are you up to full capacity? Yes.

Tom Monley, Kirtland Products: I just want to clarify that the testing that was done today was on the dryer stack and that is where all the VOC occurred, the drying of wood. That testing is an immediate result testing, so they gave us and the DEQ the test results indicating that we were well below the permitted levels of VOC. As for the particulate, they have to send that to a lab for results and won't be in for two to three weeks. We have got some good feed back from the community regarding noise reduction.

Staff Comments: None

Citizens Comments: None

NEW BUSINESS

Gravel Streets Engineering Services

Consideration to approve the contract with C2AE for Gravel Street Engineering Services in the amount of \$3,500 and authorize the City Manager to sign the required documents.

Andy Kovolski; Public Works Superintendent: We have 23 streets that are either gravel for the whole length or a portion of their length.

The total length of these segments is approximately 11,279 feet or approximately 2.2 miles. Some of these streets are very maintenance intensive; such as Court Street and the north end of Jefferson. For future planning and budget development purposes I feel it would be a good plan to have some cost opinions on how to improve our gravel streets. The fee that they are proposing \$3500 is very reasonable.

Staff Comments: None

Citizens Comments: None

Board Deliberation: Commissioner Neidhamer: A few months ago, I asked that we address getting these streets paved. This is a good step in analyzing and getting these streets paved. I am very much in favor.
Mayor Pro-Tem: I support the recommendation; I agree this could be very useful for future planning.
Commissioner Gaylord: Is this the best price they could offer? I asked them to give me their best price. Can you reiterate the need for having them do what they have outlined and included in our packet versus what we've been doing with operations on dirt roads and preparation for the future? Right now our dirt roads are at a status quo. We've maintained them the best we can. If it rains we're up on Court Street doing repairs and trying to keep that road going. As far as planning for our projects, typically we look at a road and know there is infrastructure needs and we go to C2AE to develop a cost opinion for them and that's typically how we get our information for budgeting purposes.
Commissioner Gaylord: Before I came on the Commission, there was a study called a Phaser study that ranked the streets, does that tie into this in any way? No, it's just a surface rating of the pavement conditions; it has nothing to do with anything under the top of the pavement.
Commissioner Sansom: When will this begin? This fall, we could have some of the information for budgeting this year.
Mayor Grunch: We spend a lot of money grading the streets; I think this will be money well spent and a good starting point.

2012-09-125

Moved by Towne

Second by Samson

That the City Commission approves the contract with C2AE for Gravel Street Engineering Services in the amount of \$3500.

Ayes: 5

Nays: 0

Absent: 0

Motion carried

Road Maintenance Bids

Consideration to approve the contract for the 2012 Pavement Maintenance Project to Payne and Dolan for the amount of \$165,333.

Andy Kovolski, Public Works Superintendent explained that the City received two bids for Road Maintenance and after reviewing the bids, based on unit pricing, Payne and Dolan's bid was a better value to the city.

Staff Comments: None

Citizen Comments: None

Board deliberation: Commissioner Sansom: Good with the recommendation. Commissioner Gaylord: Either bidder is more than capable for the job. Mayor Pro-Tem Towne, Mayor Grunch and Commissioner Neidhamer are all in support.

2012-09-126
Moved by Towne
Second by Gaylord

To approve the contract for the 2012 Pavement Maintenance Project to Payne and Dolan for the amount of \$165,333 and authorize the City Manager to sign the required documents.



Ayes: 5
Nays: 0
Absent: 0
Motion carried

Consideration to approve a motion supporting pursuing and participating in a Placemaking Technical Assistance opportunity for the redevelopment of the existing City Hall site and surrounding area.

Placemaking Grant Opportunities

City Manager Cain explained that if we are successful in obtaining the support offered, he is hopeful that the benefits of participation would help us move this project forward, especially the assistance in identifying state and outside resources to help implement the plan. Letters of intent are due Friday, September 21st.

Staff Comments: None

Citizen Comments: None

Commissioner Neidhamer, Mayor Pro-tem Towne and Commissioner Sansom are in full support. Commission Gaylord asked if there were any restrictions. City Manager Cain explained that this is all the information he has received, but it seems to fit what we want to do here. We are just submitting a letter of intent, if we make that cut, we would receive addition information. Mayor Grunch: The secret of our success is pre planning. This has helped us create shovel ready projects. I am support of perusing this initial step.

2012-09-127
Moved by Sansom
Second by Towne

A motion supporting pursuing and participating in a Placemaking Technical Assistance opportunity for the redevelopment of the existing City Hall site and surrounding area and authorize City Manager and/or City Clerk/Treasurer to submit the necessary documents in order to do so.



Ayes: 5
Nays: 0
Absent: 0
Motion carried

Commissioner Sansom: With the Farmers Market and Car show in the park the Saturday of Labor Day, it was pretty packed, too much traffic. On those busy days, is it possible to have a traffic officer to direct traffic? Staff is discussing routing traffic differently. Commissioner Gaylord: Mr. Crozier brought up a good point regarding dogs around the Memorial area. Could staff take a look at it and come up with some sort of understanding? The Labor Day drag race was a tremendous success.

Good of the Order

Moved by Mayor Grunch, seconded by Mayor Pro-Tem Towne to adjourn the regular City Commission meeting of September 11, 2012 at 8:11 p.m.



Ron Grunch
Mayor



Karen Seeley
Deputy Clerk