

**NOVEMBER 13, 2018  
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 NOVEMBER 13, 2018

---

**CALL TO ORDER**

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

Present: Mayor Tom Neidhamer, Mayor Pro-Tem Ron Grunch, Commissioners Hugh Conklin, Sally Page and Dean Solomon

Absent: None

Staff: Cindy Grice, Michael Cain, Barb Brooks, Kelsie King-Duff, Scott McPherson, Mike Wiesner, John Lamont, Mark Fowler, Michele Hewitt and Jeff Gaither

Others: There were 15 citizens in attendance.

---

**CONSENT AGENDA  
MOTION**

2018-11-123  
Moved by Conklin  
Second by Page

Approved the October 23, 2018 City Commission regular meeting minutes as presented

Approved the November 1, 2018 City Commission special meeting minutes as presented

Approved to authorize the purchase of a new Isco composite sampler in the amount of \$5,739.00 and authorize the City Manager to execute the documents

Approved the purchase of ten 72" round tables, including a storage caddy, receiving, installation and trash removal from Interphase Interiors in the amount \$6,262.50 and authorize the City Manager to execute the documents

Approved the of proposed resolutions regarding MDOT's Local Pavement Management Program and authorize the City Manager and City Clerk / Treasurer to submit them if necessary

Approved the requested METRO Act Right of Way Permit Extension and authorize the City Manager to submit it as needed

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

---

**CITIZENS COMMENTS**

Mike Sheean announced that the Boyne Valley Trailway received its last major grant yesterday. Ashley Cousens provided an update on the Manufacturing Day where around 200 students participated.

---

**CORRESPONDENCE**

The 2017 State Water Fluoridation Quality Award from the Michigan Department of Health and Human Services was received and filed.

---

## CITY MANAGERS REPORT

City Manager Michael Cain reported:

- It is anticipated that a candidate for DPW Director will be brought to the City Commission for confirmation in December.
- Boyne City had an excellent turnout for last Tuesday's election. 1,870 voters cast their ballot locally.
- Friday, November 9<sup>th</sup> was a special day in Boyne City's history as we held the closing and finalized the purchase of the Boyne City Open Space on Lake Charlevoix at 475 North Lake Street, across from the Family Fare plaza. Congratulations and thanks to all involved.
- Our fall leaf collection program ended this Monday for the season, just in time!
- Work on the West Michigan/Woodland water main installation continues. The three fire hydrants have been installed, the new main has been connected to the rest of our water system and so far 19 of the total 26 service connection shut off valves have been installed and connected to the main. Matt's, about a month behind schedule, was hoping to complete their installations this week. At this point it appears that final cleanups will need to wait until the spring.
- The contractor performing the video inspections of portions of our sanitary and storm sewer main systems are planning to have their survey work completed by Sunday, December 9<sup>th</sup>. They are nearly done inspecting the Sanitary Sewer mains and are beginning work on the Storm Sewers. These efforts are part of our SAW grant project.
- The fuel tank for the new (at that location) emergency generator for the north water system wellfield arrived and was set into place today. Electrical contractors are scheduled to arrive and work on the interconnect later this week. We hope to have this system fully operational yet this winter.

## REPORTS OF OFFICERS, BOARDS AND STANDING COMMITTEES

---

Draft minutes of the October 4, 2018 Main Street Board Meeting; the October 4, 2018 Parks & Recreation Commission Meeting; the October 15, 2018 Planning Commission Meeting and the October 25, 2018 Airport Advisory Board Meeting were received and filed.

---

### Audit Presentation

Presentation of the City of Boyne City FYE 2018 Financial Report from Joe Verlin of Gabridge & Company

Joe Verline of Gabridge and Company reviewed the FYE 2018 Financial Statement. The City has once again applied for the GFOA CaFR award and should be hearing from GFOA this winter. We are one of 3.76% of the communities that have received this designation.

Fund balances, pension liabilities and OPEB liabilities were highlighted. The City received an unmodified opinion again, which is the best opinion to receive.

---

Boyne City Housing Commission Executive Director presented the Conversion to the Rental Assistance Demonstration (RAD) Program

**Housing Commission  
Update**

information. The US Department of Housing and Urban Development (HUD) designed the RAD program to address a \$26 billion backlog of unmet public housing capital needs across all public housing properties in the Country. Capital funding from the Federal government has declined 35% over the past twenty years and is insufficient to meet the growing backlog of capital needs. Public housing authorities are not allowed to leverage their properties to secure loans for funding to rehab their properties. Through Rad, public housing is converted to project-based Section 8 assistance and the owner can use the property to leverage additional funds.

Through RAD, the Boyne City Housing Commission will convert from conventional public housing with traditional Capital Fund Program and Operating Fund subsidies to a project based Section 8 Housing Assistance (HAP) contract.

Each year, the federal budget includes line items for Public Housing Capital Funds and Public Housing Operating Funds. The amount the Boyne City Housing Commission (BCHC) receives is then determined by a formula established by HUD. Each year the amount of funding can vary depending on the total amount allocated by Congress, changes that HUD makes to the formula, or other events such as sequestration. Changing to Section 8 platform through RAD will provide a more stable project subsidy from HUD. RAD will allow BCHC to more easily seek other financing tools to renovate our properties. RAD creates greater funding certainty while allowing increased operation flexibility for BCHC.

Through the RAD conversion process, the BCHC will enter into a HAP contract with HUD. The initial rents in the HAP contract provide more funds than the amount we currently received to operate our properties. The HAP contract will last for 20 years, stabilizing our funding and securing inflation adjustments.

Residents will continue to pay no more than 30% of their adjusted income. For some residents, 30% of their adjusted income is greater than the flat rent. If a resident pays flat rent and it increases by more than 10% or \$20 per month, the increase is phased in over three years. Residents will need to sign a new lease, but will not be rescreened. A resident's lease must be renewed, unless the resident has violated it. Choice Mobility allows residents to leave the RAD project after one year. At that point, the BCHC must provide a Housing Choice Voucher if available, or place the resident at the top of the waiting list.

Ownership of the buildings will be transferred to a new private nonprofit. The nonprofit will be a subsidiary of the BCHC, similar to the ownership structure we have for Deer Meadows. BCHC will continue to exist and have 50 housing choice vouchers they currently administer. They will also be adding 80 RAD project based vouchers to administer and will receive additional administrative funds for the new RAD vouchers.

The BCHC has submitted an application to HUD for the RAD program. The application has been selected and there is a list of due diligence items to be completed during the next several months. If approved, the property will convert from public housing to a Section 8 Project Based Vouch Project and take a year to complete. BCHC will have the option at any time in the process to withdraw our RAD application.

Staff Comments: City Manager Cain added that BCHC is an independent body. The City is not a part of the approval process for this.

Citizens Comments: None

### City Property Update

Board Discussion: None

---

Discussion and consideration of directing staff to continue to work with the appropriate parties to develop plans to 1) develop trails and related facilities and 2) sustainably and selectively harvest timber on the City's 80 acre parcel in Evangeline Township in that order of priority, overlapping if and where feasible.

City Manager Cain discussed the November 1<sup>st</sup> Parks and Recreation Board meeting where representatives from the Top of Michigan Mountain Bike Association (TOMMBA) and the Walloon Lake Trust and Conservancy (the Conservancy) presented updates regarding trail and property initiatives involving the City's land in Evangeline Township and another parcel adjacent to ours.

The programs director Heather Huffstutler of the Conservancy reported that they had just executed a purchase agreement with the owner of the property immediately east of the City's wooded 80 acres. They are looking to work with TOMMBA to purchase that property over the next several months. That property could be used to add to and connect the existing TOMMBA trail system on the Boyne City School's property to a network of trails that TOMMBA would like to build on our wooded property.

In addition, a representative from TOMMBA advised the Parks and Recreation Board that Evangeline Township board plans to apply for a grant from the Charlevoix County Park Recreation millage that could fund the construction of a vehicle parking area on the City property adjacent to and east of Old Horton Bay Road. This is also expected to be shown on the maps that we will be receiving.

The Parks and Recreation Board was receptive to these ideas and having them developed further. The idea of selling all or some of the City property to the conservancy was also raised. The Conservancy noted that they could be interested in considering such a purchase but noted that their resources are limited. There was no consensus on this matter.

The Conservancy also noted they have an expert forester that helps them investigate properties to determine if sustainable timber harvesting operations are feasible. Their director indicated they

might be able to provide those services for the City's wooded property where the trails are being considered. The City had not pursued any further investigation into harvesting since our tours and discussions about the site and opportunities earlier this summer. The Parks and Recreation Board seemed to think the Conservancy's offer was worth pursuing.

Since the meeting we have been advised that the MDNR is receptive to and progress is being made regarding the creation of additional trails on their property just north of the Boyne City Schools property. Designers of the trails for TOMMBA have indicated to me that they feel this network of interconnected trails would provide a variety of quality experiences for riders of different skill levels which would be very attractive to bringing riders to our area.

City Manager Cain added that he continues to believe the possible development of trails and other recreational opportunities on this long dormant piece of City property, including the proposed parking lot to support them is worth pursuing. He also continues to support exploring the possibility of sustainable harvesting on this site, although that is of secondary importance. It is the long term, best interest of the City to maintain ownership of this property at this time. As mentioned at the Parks and Recreation Board meeting, he believes it is good for a community to have options and owning that property preserves our options now and in the future.

We also like the cooperative nature of the possible trail project as it is beginning to take shape. Having us work cooperatively with Evangeline Township, TOMMBA, the Conservancy, Boyne City Public Schools and the MDNR on something that could benefit our citizens, businesses, neighbors and visitors is something to be seen as a positive on so many levels.

Staff Comments: None

Citizens Comments: Heather Huffstutler of the Walloon Trust & Conservancy said they are under contract to purchase the 40 acres. This would create a partnership with Boyne City and Evangeline Township. Michael Cortright added the terrain is great for multi use. Michele Cortright, representing Evangeline Township said they are really excited for this. It will be a financial boon for Boyne City. Mike Sheean said this was very aired out and supported by Parks and Recreation. City Manager Cain said having these trails can open some doors for development. It builds on our efforts to become a trail town community.

Board Discussion: Mayor Pro-Tem Grunch supports moving forward with the recommendation. Commissioner Solomon discussed designing other compatible uses as part of the plan, right from the start. Also, we have a goal of completing what we've started before undertaking new projects. It may require agreements for long-term sustainability. We could harvest income to support that. Commissioner Page said she is concerned with long-term sustainability. Commissioner Conklin said it's a great idea. It looks

## Michigan Regulation and Taxation of Marijuana Act

good. Mayor Neidhamer said we can make this work. The City Commission is all in agreement for staff to move forward.

---

Discussion of and consideration of next steps of the Michigan Regulation and Taxation of Marijuana Act.

Planning Director Scott McPherson discussed the Michigan Regulation and Taxation of Marijuana Act (MRTMA) that was approved by Michigan voters on November 6<sup>th</sup>. It was approved in Boyne City 1052 to 782. The effective date of the law is 10 days after the State Board of Canvassers certifies the results of the election. The exact date that will happen is not specifically known at this time but it appears that it be sometime in the first week of December 2018. Once the law becomes effective it basically puts in place recreational marijuana regulations for individuals and for marijuana establishments.

In regards to individuals the MRTMA establishes regulations for the legal possession, use, transport, transfer, growing and processing of specified amounts of marijuana and marijuana accessories for persons over 21. Some activities are not authorized by the Act such as operating a vehicle under the influence of marijuana or consuming marijuana in public or in a place prohibited by the person who owns or manages a property. While the provisions and enforcement of the MRTMA laws regarding individuals are of concern to law enforcement, they are not of a direct concern to municipalities as municipalities are prevented from enforcing any law on an individual that would be inconsistent with conduct that is permitted with the Act.

In regards to marijuana establishments the City will be faced with some decisions in regards to implementation of the law within the City of Boyne City. The law establishes and classifies different types of marijuana establishments. These establishments include a Grower, Processor, Transporter, Safety Compliance Facility, Retailer and Microbusiness. The act also stipulates an establishment is "any other type" of marijuana-related business licensed by the State. This provision would include facilities licensed under the Medical Marijuana Licensing Act (MMFLA).

Unlike the MMFLA which provided a municipality the option to "opt-in" in order to permit marijuana facilities, a municipality would need "opt-out" of the MRTMA if the municipality desires not to permit marijuana establishments within the municipality. If a municipality wishes to "opt-out" it is recommend the action is done by ordinance and not resolution.

If a municipality wishes to "opt-in" the City may adopt ordinance regulations for commercial recreational marijuana establishments. Given the vague nature of the law and subjective terms used in the law, the development of ordinances regulating commercial recreational marijuana will pose significant challenges. It is almost guaranteed there will be litigation concerning the terms and provisions of the act. Likewise it is a certainty that municipal ordinances will be challenged if it is believed an ordinance is

“unreasonably impracticable”, a term that requires value judgements be made by individuals on things such as what is an “unreasonable risk” or how much is “high investment”.

While it is important that the City begin discussing the impacts of the MRTMA and identify what, if any, actions the City wishes to take, at this time there is no rush to “opt-in” or “opt-out”. From the effective date of the law the State has one year to assemble the regulatory framework for licensing commercial recreational marijuana establishments. While the State could adopt the regulatory framework in a shorter timeframe, it is not anticipated to be completed anytime in the near future.

It should be noted that a municipality is not permanently bound by any actions it takes. If a municipality decides to opt-in after a decision to opt-out has been made, they can do so, and similarly the municipality can opt-out after opting in; however, this may pose challenges on how to treat any establishments that were legally created during the opt in period.

Staff Comments: None

Citizens Comments: None

Board Discussion: Commissioner Page said a lot isn’t finely defined, but we have plenty of time to think about it. It won’t be a big money make on the local level. Commissioner Conklin said we should allow a few months to decide. Mayor Pro-Tem Grunch asked how you say no due to the margin by which the vote passed in Boyne City. Commissioner Solomon said the voting outcome was very convincing. This will be carefully considered. Our voters have spoken.

**Level of Service Statement**

---

Consideration to approve the Level of Service Statement as required by the Asset Management plan following the MDEQ requirements.

Water/Wastewater Superintendent Mark Fowler discussed the Level of Service Statement presented. As part of the Asset Management plan that we submitted for the water system, we had to include a Level of Service Statement. The Level of Service Statement was written based on our system needs and reviewing examples from Michigan Rural Water. The MDEQ requires the Level of Service Statement has approval of the City Commission.

Staff Comments: None

Citizens Comments: None

**MOTION**

Board Discussion: All are in agreement with the statement

2018-11-124  
 Moved by Solomon  
 Second by Conklin

To approve the Level of Service Statement as required by the Asset Management plan following the MDEQ requirements as presented.

**LUCAS Automated CPR  
Machine purchase**

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

---

Consideration to purchase a LUCAS machine from Physio Control in the amount of \$9,841.33 including the trade-in promotion and authorize the City Manager to execute the documents.

EMS Director John Lamont discussed the request to purchase a LUCAS automated CPR machine. CPR takes 80 lbs of pressure to compress the chest 2 inches. American Heart Association requires compression at a rate of 100-110 beats per minute. Under the AHA manual, CPR should rotate staff every two minutes to be effective. We currently use an AutoPulse as our CPR machine. It is proven to not be user friendly for our EMS staff. Also, the battery replacement is costly to maintain. Several local agencies are now using the LUCAS. This unit would add to the continuity of equipment in our service area and ease of utilization. Stryker is now offering a trade in promotion towards the purchase of a new LUCAS in the amount of \$5,000 which would reduce the cost of the new LUCAS to \$9,841.33.

Staff: Police Chief Jeff Gaither has seen the LUCAS work. It is a great tool and otherwise it sometimes takes two to four people to perform CPR.

Citizens Comments: None

**MOTION**

Board Discussion: All are in agreement

2018-11-125  
Moved by Conklin  
Second by Grunch

To approve to purchase a LUCAS machine from Physio Control in the amount of \$9,841.33 including the trade-in promotion and authorize the City Manager to execute the documents

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

**Good Of The Order**

---

Commissioner Conklin encouraged us to get better technology in the Commission Chambers. Possibly hire a professional consultant to assist.

Mayor Neidhamer noted that we discussed 3 of our goals tonight. We are right on track.

---

**ADJOURNMENT**

Motion by Mayor Neidhamer to adjourn the Regular City Commission meeting of Tuesday, November 13, 2018 at 9:20 p.m.

  
\_\_\_\_\_  
Tom Neidhamer  
Mayor

  
\_\_\_\_\_  
Cindy Grice  
Clerk/Treasurer