

**SEPTEMBER 8, 2020
REGULAR MEETING**

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

CALL TO ORDER

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

Absent: None

Staff: Cindy Grice, Michael Cain, Scott McPherson, Tim Faas, Patrick Kilkenny

Others: There were 15 citizens in attendance via the Zoom meeting platform

**CONSENT AGENDA
MOTION**

2020-09-094

Moved by Conklin

Second by Grunch

Approval of the August 25, 2020 City Commission regular meeting minutes as presented

Approval to purchase three computer towers from Common Angle with Microsoft Home, Office and Business for a total not to exceed \$3,414 and authorize the City Manager to execute the documents

Approval to appoint James Richman to the Main Street Board to fill a vacancy with a term expiring January 18, 2021

Approval to appoint Adam Graef to the Main Street Board to fill a vacancy with a term expiring January 18, 2022

Ayes: 5

Nays: 0

Absent: 0

Motion carried

CITIZENS COMMENTS

None

CORRESPONDENCE

None

**CITY MANAGERS
REPORT**

City Manager Cain reported:

- The second round of dust control has been completed
- We have discovered that the North Lake Street Bridge has erosion. Further studies are being conducted
- The tree removal program is one third complete.
- The Fall rubbish collection will be on Saturday, September 19

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

Draft minutes of the August 6, 2020 Main Street Board meeting; the August 13, 2020 Parks & Recreation Board meeting were received and filed.

**2nd Reading
International Property
Maintenance Code**

Consideration to adopt the International Property Maintenance Code and enforcement policy as proposed

Planning Director Scott McPherson said that currently the City does not have any type of property maintenance code. The only tool the City has to address dilapidated structures is the City's Dangerous

Building's Ordinance. To initiate an action using the Dangerous Building Ordinance a structure has to be significantly degraded or damaged, usually to the point that it is economically unfeasible to repair or restore the structure. Over the years the City has discussed the possible adoption of a property maintenance code, however, an ordinance has never been developed and submitted to the City Commission for their consideration. In 2018 the City goals adopted by the City Commission included the goal of "Increase Housing Availability". To help achieve that goal the City Commission tasked the Planning Department to "Develop a property maintenance standard ordinance to provide additional tools for improving substandard housing units." To accomplish this task the International Property Maintenance Code (IPMC) has been submitted to the City Commission for consideration for adoption. A hard copy of the ordinance is available at City Hall and online.

Discussion

Given the experiences with dilapidated buildings over the past few years, and the time and effort required to enforce the dangerous building ordinance, a property maintenance code could offer a more efficient and less time-consuming enforcement tool and advance the City's goal to increase housing availability. A property maintenance code would provide the City the ability intervene to require deteriorating structures that have defects be corrected prior to becoming unfixable issues. After reviewing the challenges and issues raised with the creation of a customized property maintenance code, it was determined that the most cost-effective way to adopt an ordinance was to adopt the IPMC by reference. The IPMC is developed by the International Code Council (ICC). The ICC is a nonprofit member-based association that develops a wide variety of model codes. Historically, model codes were prepared by several different code bodies such as Building Officials Code Administrators International, Inc. (BOCA), Southern Building Code Congress International (SBCCI), and the International Conference of Building Officials (ICBO). With different bodies developing different codes the application of the varying standards across jurisdictions was very difficult for builders, architects, manufactures and other users of the codes. In 1999, the code bodies began to work together to prepare a unified code under the auspices of the ICC. The ICC is dedicated to developing a minimum set of standards to be used in the design, building and maintenance of safe, sustainable and affordable structures. The first set of ICC codes were published in 2000 and included the International Building Codes. ICC Codes have since been adopted in all 50 states and the IPMC has been adopted by many municipalities in Michigan and throughout the country. In Michigan the International Building Codes developed by the ICC were adopted by the State of Michigan and are now the State of Michigan Construction Code. The State Construction Code does reference the IPMC and it could be enforced by municipalities that have adopted the State Construction Code. In Charlevoix County the choice has been made not to enforce the IPMC so municipalities would need to adopt the code individually if the municipality wished to enforce it. In Charlevoix County the City of East Jordan has adopted the IPMC. Other northern Michigan cities that have adopted the code are Petoskey, Cheboygan and Alpena. In the cities of Petoskey and Cheboygan

the code is enforced by the police departments, in the City of Alpena they have their own building department that enforces the code, in City of East Jordan the enforcement is done by the zoning administrator.

As identified by City attorney Rhonda Stowers there are several benefits to simply adopting the IPMC by reference including the following:

- **Thoroughness** - The IPMC is drafted with input from code compliance officers, industry officials, and other interested parties. The codes are carefully formulated with input from specialists in the fields, municipal entities, and members of the public. As such, it is less likely that a particular issue will “slip through the cracks.”
- **Balance** – Because the code is created with the input of various perspectives, it tends to represent a balance between the needs of the industry, the concerns of the public, and the interests of code enforcement.
- **Readability** – as the IPMC has been in place for a significant time, its provisions have been honed over the years to eliminate ambiguity and improve clarity.
- **Ease of Enforcement** – The IPMC has gained acceptance as a definitive code in the industry and in the court system. This makes its enforcement less subject to challenge than an untested local code provision. Also, contractors are more likely to be familiar with (and therefore more likely to comply with) the code provisions of the IPMC than a tailored local code, lowering the overall number of potential violations. A licensed contractor should not be able to plead ignorance.
- **Ease of Adoption** – If the City adopts the IPMC by reference, it will not be burdened with creating its own property maintenance code. The IPMC is a copyrighted document (as are other codes), so a municipality that is copying and pasting code provisions from other sources runs the risk of unintentionally violating copyright laws. Adoption by reference avoids the risk and the burden of creating a new code.
- **Ease of Amendment** – If the City adopts the IPMC by reference and has the latest manual available for inspection and review by citizens, the City will not be burdened with frequent reviews of its property maintenance code to determine if an update is needed; it will simply be a matter of having the most recent version on file.

One of the primary concerns that has been expressed with proposed adoption of the IPMC has been how it will be enforced. This is an understandable concern and all of the northern Michigan municipalities that have adopted the IPMC had similar concerns expressed during the adoption process. In all cases these concerns have not materialized. While it is staff's position that would also be the case in Boyne City, if the IPMC is adopted it is suggested that the City Commission also adopt an enforcement policy to insure the

ordinance is enforced as intended. A draft enforcement policy has been provided with the Ordinance for your consideration. Please note the addition of the required revisions in section 5 of the ordinance that fill in specific provisions for the City of Boyne City.

Staff Comments: None

Citizens Comments: Chuck Vondra said there have been changes to the document from the 1st ordinance to the current one and asked if that was proper. Some items in the IPMC are already addressed in existing ordinances. How many dilapidated buildings do we currently have to enforce this on? He is not sure how this will increase housing availability.

Marty Moody said the City is trying to get this thru with people not being able to see it. Why have anything based on international codes? This is little Boyne City. He is worried about future commissioners and staff enforcement of this code.

Tim Nemecek said the City has public buildings that do not fit this code. We owe it to Boyne City residents to tweak this ordinance to Boyne City.

Al Aown said he thinks it's a good idea to have a set of guidelines. This is serious stuff. Does everything have to be perfect? We need to do our due diligence.

Chris Christensen said based on this, many homes would be in violation if this is adopted. Some of what is in the IPMC is overreaching.

William Church said his biggest concern is the enforcement aspect and one person having all the power.

Joe Schlegel said this is taking a big step to go after a small problem. He volunteered to be involved in a committee to create a document and feels this is currently overreaching.

Nick Rocky said he struggles with the overreach when we already have ordinance in place. Why is that necessary?

Board Discussion: Mayor Pro-Tem Grunch said he goes back to the intent of this ordinance which is to prevent problems before they become too large. He is not in favor of approving as presented. Commissioner Solomon said he really thinks this is going to be ok. These fears haven't come true in other communities. This is to prevent buildings from becoming so dilapidated they have to be removed. Commissioner Page said she is in no rush to move forward. Commissioner Conklin said he supports this but could also wait two weeks.

2020-09-095

Moved by Solomon

Second by Conklin

MOTION

To adopt the International Property Maintenance Code and enforcement policy as proposed

Ayes: 3

Nays: 2, Commissioner Page and Mayor Pro-Tem Grunch

Absent: 0

Motion carried

**Transfer of Business
Park Lot 5 – Phase II**

Consideration to approve the recommendation of the EDC to transfer Lot 5 in Phase II of the Business Park back to Industrial Magnetics Incorporated in exchange for tax losses and associated fees and authorize the City Manager and/or City Clerk/Treasurer to execute the necessary documents.

City Manager Michael Cain said that in November 2010 Bud and Nancy Shear and Industrial Magnetics Incorporated (IMI) donated vacant lot 5 in Phase II of the Business Park to the City. Lot 5 still remains vacant but IMI now needs the lot for access to their current site in Wilson Township and future expansion. IMI is currently getting an expansion approved thru Wilson Township where it resides to significantly expand its operations. In another few years IMI would like to build a 20,000+ sq./ft facility on Lot 5. As part of their current expansion they would also like to build a new access drive to Lexamar Drive to give vehicles an alternate route to access their current, soon to be expanded facility. Lot 5 is 4.95 acres in size and has a natural gas transmission main that bisects the property generally east to west.

Indirectly related to the IMI donation in 2010 was the then plan of the Humane Society to purchase our lot 11 in Phase II of the business park for a nominal \$1 fee. That sale never took place, instead the Humane Society purchased the former Charlevoix County building which is their current site. Their Executive Director Scott MacKenzie indicates that they have no need for lot 11. The return of Lot 5 to IMI was discussed at our Economic Development Commission's (EDC) August 31st meeting. They approved a motion as follows:

Cortright moved, Anzell seconded, PASSED UNANIMOUSLY to return lot 5 of the Business Park which was donated to the City, back to IMI subject to reimbursement of tax losses and associated fees which were incurred when transferring the property.

Clerk/Treasurer Grice's calculation of the lost tax revenues back to 2010 is \$18,952.28. It will return to the tax rolls next year. This cost has been discussed with Mr. Shear and he finds it acceptable. The other fees to transfer the property back, have not yet been calculated. This property will be subject to the same easement and restrictions that apply to other properties in Phase II of the Business Park.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement with the recommendation.

MOTION

2020-09-096
 Moved by Conklin
 Second by Page

To approve the recommendation of the EDC to transfer Lot 5 in Phase II of the Business Park back to Industrial Magnetics Incorporated in exchange for tax losses and associated fees and authorize the City Manager and/or City Clerk/Treasurer to execute the necessary documents.

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

**Sale of Business Park
 Lots 3 & 4 – Phase I**

Consideration to approve the recommendation of the EDC to sell lots 3 & 4 in Phase I of the Business Park back to Flying Dutchman Holdings for \$36,500 and authorize the City Manager and/or City Clerk/Treasurer to execute the necessary documents

City Manager Cain stated earlier this year Brook Walsh and his Northern Michigan Escapes purchased the building on lot 2 in Phase I of the Business Park located in the northeast corner of the Air Industrial Drive /Lexamar Drive intersection. He is interested in purchasing the abutting vacant lots 3 and 4 as shown on the attached map and has agreed to the terms on the attached term sheet. The property would be sold to the firm he has known as Flying Dutchman Holdings, LLC. The lots are 0.82 and 1.17 acres respectively or 1.99 acres total. Specific plans for the site will be provided after the lots are sold. The sale of Lots 3 and 4 to Mr. Walsh were discussed at our Economic Development Commission's (EDC) August 31st meeting. The EDC approved a motion to recommend this sale

Staff Comments: None

Citizens Comments: None

MOTION

Board Discussion: All are in agreement with the recommendation

2020-09-097
 Moved by Page
 Second by Grunch

To approve the recommendation of the EDC to sell lots 3 & 4 in Phase I of the Business Park to Flying Dutchman Holdings for \$36,500 and authorize the City Manager and/or City Clerk/Treasurer to execute the necessary documents

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

**2020 Pavement Rehab
Project Additional Work
Recommendations**

Consideration to amend purchase order #5696 to Rieth-Riley Construction for the 2020 Road Rehabilitation Project by \$2,947 for an amount not-to-exceed \$277,952 and authorize the City to execute the documents.

Director of Public Works Tim Faas said that on April 2020, the City Commission awarded a contract to Rieth-Riley in an amount of \$275,005 for our 2020 Pavement Rehabilitation Project. The work was substantially completed in June at a final cost of \$257,112. As such, the contract has \$17,893 remaining.

Faas requested pricing from Rieth-Riley on performing some asphalt preservation overlay work on a couple short sections of local streets with the remaining funds. This work would involve the Public Works staff saw cutting a butt-joint at each end of the area to be overlaid and then Rieth-Riley crews paving a minimum of 1.5" thick asphalt over the existing pavement. The city would assist with traffic control as well as restoration. Overlays have been proven to extend the useful life of pavements by about 5 to 7 years. The streets priced are Mechanic Street (W Michigan Avenue to Bay Street), Bay Street (either side of Mechanic Street) and Second Street (McKinley Street to Terrace Street). The cost to perform the overlays would be \$20,840 as outlined in the proposal from Rieth-Riley. This is \$2,947 more than what remains under the contract.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement with the recommendation.

MOTION

2020-09-098
Moved by Conklin
Second by Solomon

To amend purchase order #5696 to Rieth-Riley Construction for the 2020 Road Rehabilitation Project by \$2,947 for an amount not-to-exceed \$277,952 and authorize the City to execute the documents.

Ayes: 5
Nays: 0
Absent: 0
Motion carried

**2020 Parks & Erosion
Control Projects**

Consideration to authorize the Director of Public Works to procure materials for the Parks and Erosion Control Projects to be completed this fall and winter subject to budgeted amounts and final approval of the City Manager.

Director of Public Works Tim Faas provided a list of projects that are scheduled for construction by the Public Woks staff this fall and winter. The projects have a mix of revenues from private donations,

grants, or County millage funds to help offset the City of Boyne City costs.

1. Boyne Forest Trail Trailhead Parking Lot & Pathway (2020 Charlevoix Co Parks Millage Allocation)
2. Ridge Run Dog Park Agility Area (Private Donations & Community Foundation Grant)
3. Avalanche Trail Signage (2019 Charlevoix Co Parks Millage Allocation)
4. F Grant Moore Marina Sidewalk Erosion (2020 MDNR Waterways Grant)
5. Sunset/Veterans Park & John Street Road End Erosion
6. Airport Parking Lot Trailhead Rest Rooms

In order to expedite the construction delivery, Tim requested approval to work directly with vendors to procure the required materials to satisfy the designs for each of these projects. Where possible competitive written quotes will be solicited; however, some products will be sole sourced. Examples of the materials required include stone, geotextile fabric, wood posts & fencing, signs, concrete, erosion control products, etc. working within the confines of the grants and agreements with a pledge not-to-exceed the approved budgets without seeking City Commission approval. If materials can be procured locally, we will do that.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement with the recommendation.

2020-09-099

MOTION

Moved by Page
Second by Conklin

To authorize the Director of Public Works to procure materials for the Parks and Erosion Control Projects to be completed this fall and winter subject to budgeted amounts and final approval of the City Manager.

Ayes: 5
Nays: 0
Absent: 0
Motion carried

Newspaper of Record

Consideration to approve the Petoskey News Review as the Newspaper of Record for the City of Boyne City.

Clerk/Treasurer Grice stated the need to designate a Newspaper of Record since the Boyne Gazette is no longer in business. Proposal were requested. The Petoskey News Review will provide the best coverage in getting the information to the public.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement with the recommendation.

MOTION

2020-09-100

Moved by Solomon

Second by Conklin

To approve the Petoskey News Review as the Newspaper of Record for the City of Boyne City

Ayes: 5

Nays: 0

Absent: 0

Motion carried

Good of The Order

None

ADJOURNMENT

Motion by Mayor Neidhamer, second by Commissioner Conklin to adjourn the Regular City Commission meeting of Tuesday, September 8, 2020 at 9:28 p.m.

Tom Neidhamer
Mayor

Cindy Grice
Clerk / Treasurer

DRAFT