

**FEBRUARY 12, 2019  
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 FEBRUARY 12, 2019

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**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: Michael Cain, Cindy Grice, Scott McPherson, Jeff Gaither, Kelsie King-Duff, Tim Faas and Mark Fowler

Others: There were six citizens in attendance including a representative from the Petoskey News Review

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**CONSENT AGENDA  
MOTION**

2019-02-014  
Moved by Conklin  
Second by Grunch

Approved the January 22, 2019 City Commission regular meeting minutes as presented

Approved the recommendation of the EDC board to reappoint Josette Lory for a term of six years ending March 11, 2025

Ayes: 5  
Nays: 0  
Absent: 0  
Motion carried

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**CITIZENS COMMENTS**

None

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**CORRESPONDENCE**

Correspondence from Communication from Nancy LaCroix regarding recreational marijuana was received and filed.

Correspondence from Todd Wright regarding his concerns about the proposed amendment to the Height Ordinance to be discussed as agenda item 9B

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**CITY MANAGERS  
REPORT**

City Manager Cain reported:

- The replacement pump installation at the river mouth pump station is complete.
  - Last week, the City purchased the Draco Viewer sculpture located just south of the river mouth restrooms for \$14,000 with donated funds for the purchase.
  - Last week, the water main under the north side of the East Street Bridge sprung a leak. The leaking water went directly into the river so it took a while for us to find. Repairs will be made when weather allows.
  - Repairs to water #2 appear to be complete. It is ready to be put back into service if the second round of water sample tests come back good. The first one already has.
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**REPORTS OF  
OFFICERS, BOARDS  
AND STANDING  
COMMITTEES**

Draft minutes of the January 3, 2019 Main Street Board Meeting; Approved minutes of the January 10, 2019 Airport Advisory Board Meeting; draft minutes of the January 10, 2019 Parks & Recreation Commission; the January 21, 2019 Historical Commission Meeting; the January 21, 2019 Planning Commission Meeting; the January 24, 2019 Airport Advisory Board Meeting; the January 28, 2019 EDC Board Meeting and the January 28, 2019 LDFA Board Meeting were received and filed.

**Marihuana Opt Out  
Ordinance Second  
Reading**

Consideration of a second reading and adoption of ordinance 34-9 and 34-10 to prohibit marihuana establishments within the City of Boyne City as defined by the Michigan Regulation and Taxation of Marijuana Act.

Planning Director Scott McPherson discussed the MRTMA that was approved by Michigan voters in November and became effective December 6, 2018. The Act requires municipalities to either opt-in to permit and regulate marijuana establishments or opt-out to not permit marijuana establishments within the municipality. If a municipality wishes to opt out, it is recommended the action be done by ordinance. From the effective date of the law, the State has one year to assemble the regulatory framework for licensing commercial recreational marihuana establishments. While the State could adopt the regulatory framework in a short timeframe, it is not anticipated to be completed anytime in the near future. The City may opt in or out at any time. However, given the fact that the nature and requirements of the rules that will be adopted by the State are completely unknown at this time, developing an ordinance to regulate establishments at this time would pose significant challenges. Therefore, it would seem prudent to choose to opt out at this time to provide the City the time to further study the issue and fully consider the rules developed by the State once completed.

Staff Comments: Chief Gaither continues his support of opting out. He agrees to wait. City Manager agrees with the recommendation to opt out as well.

Citizens Comments: Skylar MacNaughton said he agrees to opt out until the State sorts everything out. We need to get everyone involved.

Board Discussion: Commissioner Page said she believes we are better off opting in. It was what the voters passed. All other Commissioners agree with the recommendation.

**MOTION**

2019-02-015  
Moved by Conklin  
Second by Solomon

To adopt ordinance 34-9 and 34-10 to prohibit marihuana establishments within the City of Boyne City as defined by the Michigan Regulation and Taxation of Marijuana Act.

Ayes: 4  
Nays: 1, Commissioner Page

Absent: 0  
Motion carried

**Article XX Building  
Height Amendment  
Second Reading**

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Consideration of a second reading and adoption of an amendment to Section 20-10 and 20.20 of the Article XX Schedule of Regulations and Section 10.50(C) of the Article X Central Business District and Section 11.04(C) of Article XI Transitional Commercial District

Planning Director Scott McPherson discussed the current the ordinance that limits building height by a maximum number of stories or maximum number of feet in the Schedule of Regulation Sections 20.10 and 20.20, and in the Central Business District (CBD) and Transitional Commercial District (TCD) Development Requirements Sections 10.50(C) and 11.04(C) respectively. Per ordinance requirements when there are multiple regulations that can be applied the most restrictive controls.

In discussions with prospective developers the maximum stories provision was noted as a limiting factor and potential barrier for redevelopment projects. In response to these discussions staff reviewed the implication of an ordinance change that would eliminate story limitation aspect of the maximum height regulations. Currently all zoning districts limit maximum height in the number of stories and feet. In the CBD the maximum building height is 3 ½ stories with maximum height of 45 feet. For your reference 2 sheets of example elevations have been provided. Sheet 1 shows an example of the same building in different configurations. If configured as a 4 story structure the building would not meet ordinance standards. If only half of the 4<sup>th</sup> story is completed as finished space or if the building was developed with only 3 stories the same basic structure would meet ordinance height standards. While these concepts are possible, they probably are not likely. Specific examples of what is developed can be found in existing and approved buildings in the City. Sheet 2 shows the elevations of the Harborside Condominium and an approved plan for One Water Street. As can be seen with the provided elevations, the story limitation does not reduce the overall height of the building, it limits only the amount of usable space inside the structure and encourages the gambrel roof form.

Another issue that was found in the review of the height regulations was contradicting requirements for the TCD district. Article XX limits buildings to 2 ½ stories with maximum height of 35 feet and in section 11.04 (C) the height is limited to 2 stories with a maximum of 30 feet.

Given these issues the proposed ordinance amendments were developed to clarify regulations, eliminate ordinance inconsistencies and promote redevelopment. The proposed change would be consistent with the master plan and the adopted goals of the City by more efficiently using available land and infrastructure and by providing the ability to create more usable space per building which could be used for more commercial space and/or additional housing units.

**Building Height:** *The vertical distance measured from the established grade prior to any excavation or construction, to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. Where a building is located on sloping terrain, the height shall be measured from the lowest exposed point of a building to the highest point of the roof surface for flat roofs; to the deck line of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs.*

*For roofs which are not symmetrical the mean height between the eaves and ridge will apply to the highest midpoint of all roof surfaces. When more than one type of roof is present in a building design, each type shall be considered separately, and no roof element shall exceed the height allowed for that particular roof type.*

**Story:** *A portion of a building, other than a mezzanine, included between the surface of a floor and the upper surface of the floor next above, or if there is no floor above, then the space between the floor and the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.*

**Story, Half:** *A part of a building between a pitched roof and the uppermost full story, such part having a floor area which does not exceed one-half (2) of the floor area of such full story, provided the area contains at least two-hundred (200) square feet, with a clear height of at least seven (7) feet six (6) inches.*

The proposed amendment to Article XX would eliminate the story limit in Section 20.10 and 20.20, Section 10.50(C) of the Article X Central Business District and Section 11.04(C) of Article XI Transitional Commercial District as follows:

10.50 C.

Building Height. ~~Maximum height of all buildings shall be three (3.5) stories and forty five (45) feet. All stories shall contain habitable commercial, office, or residential spaces. First floor height of all buildings shall be a minimum of twelve (12) feet. New buildings must contain at least two (2) stories if the building is proposed for a corner lot or is adjacent to a multiple story building, unless the Planning Commission determines requiring a second story will not significantly enhance the character and appearance of the downtown.~~

11.04 C

Building Height. ~~Maximum height of all buildings shall be two (2) stories and thirty (30) feet. All stories shall contain habitable commercial, office, or residential spaces. First floor height of all buildings shall be a minimum of twelve (12) feet.~~

Staff Comments: Scott added that the only change is the number of stories inside the structure – how the inside of the building is used.

Citizens Comments: Michelle Cortright reminded everyone about the code of conduct the Commission has adopted. We can have good discussion about this. She is excited about the potential of the Lake Street properties and said to be open minded. Bruce Janssen said we should hold off on the amendment at this point. He is concerned about the visuals that could take place due to this amendment. There should be sessions to look into this further. Lesley Pritchard said this is a departure from the master plan. All of the ½ stories were to be mechanical. She is not in favor of the amendment.

Board Discussion: Commissioner Conklin said he was bothered by the process and thinks we should send this back to the Planning Commission. He wants the development to be successful. We should get the word out about the proposed development on North Lake Street. Commissioner Neidhamer said we've been tasked with taking away barriers and this is one. All other Commissioners are in agreement with the recommendation.

### **MOTION**

2019-02-016

Commissioner Conklin moved to refer this matter back to the Planning Commissioner. There was no second to the motion.

Moved by Grunch  
Second by Solomon

To adopt an amendment to Section 20-10 and 20.20 of the Article XX Schedule of Regulations and Section 10.50(C) of the Article X Central Business District and Section 11.04(C) of Article XI Transitional Commercial District

Ayes: 4  
Nays: 1, Commissioner Conklin  
Absent: 0  
Motion carried

### **North Lake Street Resurfacing Project Design and Trail Planning**

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Consideration to award a contract for the design & trail planning services for the N Lake Street Project in an amount not-to-exceed \$27,500 per the proposal dated 2/5/2019 and authorize the City Manager to execute the documents. A portion of costs will come from funds available for these services in 2018/2019 Budget and the balance will be included in the 2019/2020 Professional Services account in the Major Roads Budget.

Director of Public Works Superintendent Tim Faas discussed the planned rehabilitation and/or reconstruction of the existing pavement along N Lake Street from the City boat launch to W Michigan Avenue. As part of the design of this road improvement project, the trail extension design from roughly the city center to W Michigan Avenue will also be completed. MDOT has programmed \$235,000 in funds to cover a portion of the cost of the road project; however, the window for use of those funds closes on September 30, 2019. As such, the City must commence the design work as soon as practicable in order to meet the deadline. This road project would likely be constructed in the spring of 2020.

The City requested a formal proposal from C2AE, the City's civil engineering consultant, outlining the project understanding, scope and fee for the desired services (see attached). C2AE is most capable of meeting the tight deadline, is familiar with the trail project and was the designer of the section of N Lake Street south of this project to be constructed yet this year. The total cost of the services is \$27,500 which would be charged to the Professional Services account #202-451-818.000 in the Major Roads Budget.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement with the recommendation.

**MOTION**

2019-02-017

Moved by Solomon

Second by Grunch

To award a contract for the design & trail planning services for the N Lake Street Project in an amount not-to-exceed \$27,500 per the proposal dated 2/5/2019 and authorize the City Manager to execute the documents

Ayes: 5

Nays: 0

Absent: 0

Motion carried

**BS&A Work Order  
Software Purchase**

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Consideration to accept the proposal from BS&A Software in an amount not to exceed \$9,445 for Work Order software and authorize the City Manager to execute the documents

Director of Public Works Superintendent Tim Faas discussed the proposal to purchase Work Order software from BS&A, our current financial management software provider. This software would allow the staff in both Water/Wastewater Department and Public Works Department to track preventative and corrective maintenance activities on all public owned assets such as the wastewater lagoons, wastewater treatment plant buildings and equipment, water wells, pumping stations, vehicles, parks, roads, public buildings, etc. The software would be interfaced with our ESRI GIS parcel mapping software so the labor, materials and equipment expenses are assigned to City property community-wide. Doing so will position us to budget better in the future, extend the useful life of the assets under our care, and generally be better stewards of the residents investments in our assets of time.

The total proposal from BS&A including set-up, training and travel is \$9,445 and these costs are proposed to be charged to several funds.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement the request.

**MOTION**

2019-02-018

Moved by Page

Second by Grunch

To accept the proposal from BS&A Software in an amount not to exceed \$9,445 for Work Order software and authorize the City Manager to execute the documents

Ayes: 5

Nays: 0

Absent: 0

Motion carried

**DPW Facility Security Upgrades**

Consideration to contract with Habitec Security to upgrade and move the DPW security systems, including video monitoring and facility access control to the Police Department in the amount of \$3,777 and authorize the City Manager to execute the documents.

Police Chief Jeff Gaither discussed the current video monitoring system at the DPW building. The control panel and DVR are currently housed in a closet and there is no means to observe what the cameras see or record without standing in that closet. The video system is also not secure because it is not in a locked housing. To get the full value of the video, Habitec Security Company could enable remote access of the system to the Police Department by installing an Open Eye DVR in place of the one currently being used. This would allow monitoring of the perimeter of the building and the yard for security purposes by on duty officers when they are in the PD office. This would be especially useful at night when officers are in the office working on reports, giving them eyes around the DPW facilities and also give playback capabilities to officers for investigations involving the yard or the building if something should occur there.

The cost to transfer the video system controls to the PD is \$1,892 which includes a locked box for housing the hardware system in the DPW building. With labor, the total for this move could be \$2,192.

The other component of security for DPW would be to combine the building access key card system with the City Hall system, which is managed by Assistant Chief Kevin Spate. Currently the DPW system is not compatible with the City Hall system, thus the key cards for DPW cannot be activated or deactivated by Kevin. Facility security begins with facility access control, limiting the potential for unauthorized use or entry into the facility. Combining the systems would bring more security to the DPW facility. Habitec has the capability to combine the systems so they can truly be security controlled. We have an established protocol for the distribution of key cards at City Hall which would be utilized for the DPW building as well. If key cards are lost or not returned, they can be deactivated

immediately within the systems combined. Habitec also has software that makes it very simple to view which doors are used with the key card system and by which user. This becomes helpful to review which doors are used most or which door may have been accessed by any uses. Costs for the key card Facility Access Control move to the PD would be \$1,235 plus \$350 for the software to isolate the doors on a report bringing the total to \$1,585. Public Works Superintendent Tim Faas is in agreement with the recommendation and has funds in the DPW budget to cover the costs.

Staff Comments: None

Citizens Comments: None

Board Discussion: All are in agreement.

**MOTION**

2019-02-019  
 Moved by Solomon  
 Second by Page

To contract with Habitec Security to upgrade and move the DPW security systems, including video monitoring and facility access control to the Police Department in the amount of \$3,777 and authorize the City Manager to execute the documents

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, February 12, 2019 at 8:50 p.m.

  
 Tom Neidhamer  
 Mayor

  
 Cindy Grice  
 Clerk/Treasurer