

**OCTOBER 28, 2014
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 OCTOBER 28, 2014

CALL TO ORDER

Mayor Grunch called the meeting to order at noon followed by the Pledge of Allegiance.

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

Absent: None

Staff: Cindy Grice, Michael Cain, Scott McPherson, Dan Meads, Andy Kovolski, Barb Brooks and Jeff Gaither

Others: There were 10 citizens in attendance including representatives from the Petoskey News Review and Charlevoix County News.

**CONSENT AGENDA
MOTION**

2014-10-150
Moved by Neidhamer
Second by Towne

2014-10-150A
Approved the October 14, 2014 Regular City Commission meeting minutes as presented
2014-10-150B
Approved the October 21, 2014 City Commission Facilities Work Session minutes as presented

Ayes: 5
Nays: 0
Absent: 0
Motion carried

CITIZENS COMMENTS

None

CITY MANAGERS REPORT

City Manager Cain reported:

- The East and Ray Street project is coming together.
- The Boyne Area Medical Center expansion is moving forward. The trees removed for that project have been moved to the dog park.
- Congratulations to the Rambler football team for their undefeated season.

CORRESPONDENCE

None

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

September, 2014 Financial Statement was received and filed.

**Division Street Water Issue
Update**

Consideration to authorize staff to spend up to \$20,000 to further reduce water levels on City property south of Division Street as recommended.

City Manager Cain discussed the ongoing issues with standing and underground water occurring on Division Street between Lewis and Grant Streets. There have been theories that our construction of Division Street in 2008 has somehow affected the water flowing in its natural or at least

historic course from South to North. Based upon what verifiable information seen or made aware of to date that demonstrates that the Division Street project, or anything else the City has or has not done has affected what the water is doing in this area. This issue did not arise until a couple of years after this project was completed. This issue arose during a period where the last two years were above average precipitation levels. The National Weather Service data for this area for the most recent 15 years was presented. Information from the Army Corp of Engineers showing that Lake Michigan and Lake Huron have experienced one of the quickest rises in lake levels in their recorded histories. Despite persistent rumors there was a culvert across Division Street in the vicinity of Division / Parkview / Grant Intersections, we have been unable to find any evidence that this ever existed. We found plans that when the Senior Center was built, they constructed underground water collection lines that drained into the water feature / storm drain west of their building that flows north along Grant Street towards the woods. Those were not affected by the road project. A culvert further east on Division Street towards Lewis apparently at one time flowed under Division Street was noted and capped since it was not functional. The property it flowed to north of Division Street had been filled by the property owner over the years so the pipe had nowhere to flow any water. City Manager Cain added that it appears there are at least two levels of water in this area. Surface and shallow ground water and lower levels. The lower levels we pump water from south of the Water Works building have remained pretty constant despite the recent precipitation. Staff has experienced increased and unusual water complaints and observations all over the City the last couple of years that could have nothing to do with the Division Street work. Opportunities to reduce the water on our property and possible on that of others were discussed.

Kevin Klevorn presented a packet of information to the City Commission of the information he knows so far. He has consulted and hired an engineer on behalf of his clients and they do not have information back yet. Larry Fox of C2AE said he agrees with everything in the City Manager's memo regarding this issue.

Citizens Comments: Bill Kuhn said it turned out to be a defense of Division Street. Option C presented at this meeting would fix this problem, but he would like us to explore and pick our best option. It is a great big problem and we need to fix it. He added that he has paid taxes for 35 years and now he couldn't sell it. The house is worth nothing. He's not going to pay taxes on a house that's not worth anything. Pat Kujawski said her concern is she has been at her residence for over 30 years. Since the Spring of 2013, the sump pump in her basement runs all of the time.

Commissioners Discussion: Commissioner Neidhamer said it is a very complicated issue. We, as a Commission need to come up with a solution. He likes the idea of both teams coming together to come up with a solution. We need to pursue cooperation and continue with a solution, continue addressing the experts. Mayor Pro-Tem Towne said if we could reduce the water by 3 to 4 feet that would solve a lot of problems. Commissioner Gaylord said he is willing to move forward because it's the right thing to do. He is in favor of taking it down 4 feet. Commissioner Sansom asked Larry Fox what provides the best relief and was informed option C, that would take the pipe west to the front of Park View

Apartments and tie into the storm water main stub we installed there. If we did that, he didn't think there would be a problem with the volume of water. Mayor Grunch added that he appreciates Kevin's research and input.

City Manager Cain cautioned the Commissioners to be careful what we want to do. The City doesn't have the responsibility to make every lot buildable.

MOTION

2014-10-151
 Moved by Towne
 Second by Gaylord

To authorize staff to spend up to \$20,000 to further reduce water levels on City property south of Division Street as recommended

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

RECESS**MOTION**

2014-10-152
 Moved by Grunch
 Second by Towne

To recess at 2:12 p.m.

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

RECONVENE**MOTION**

2014-10-153
 Moved by Grunch
 Second by Gaylord

To reconvene at 2:22 p.m.

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

AGENDA ITEMS MOVED**MOTION**

2014-10-154
 Moved by Grunch
 Second by Gaylord

To move agenda item 9B before item 9A

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

Court Street Design Review

Review and comments on draft construction plans with Larry Fox of C2AE.

Larry Fox from C2AE presented preliminary plans for the reconstruction of Court Street. The distance covered will be 2,600 feet. It will connect pavement together on both sides. The budget for the project is \$890,000 with the City and Township paying 20% of the project.

Citizens Comments: None

Staff Comments: Barb Brooks asked if the lanes will be wide enough to stripe for a bike lane and was told no. Andy Kovolski said he is glad this is happening. Dan Meads said it is a project that has been needed for a long time. Jeff Gaither agreed and said he is looking forward to getting it fixed.

Board Discussion: Mayor Pro-Tem Towne said it has been on the list a long time. We should proceed. Commissioner Gaylord said it is a safety issue that needs to be addressed. Commissioner Sansom, Neidhamer and Mayor Grunch agree and are in favor of the project.

AGENDA ITEMS MOVED
MOTION

2014-10-155
Moved by Grunch
Second by Gaylord

To move agenda item 9E to the next order of business

Ayes: 5
Nays: 0
Absent: 0
Motion carried

Tree Planting Bids

Consideration to approve a contract with Robinson's Landscape and Nursery of Boyne City in an amount not to exceed \$9,140 and authorize the City Manager to sign the necessary documents.

Public Works Superintendent Andy Kovolski discussed the tree planting bids received. This year we allotted for 42 trees to be planted in the City right of way based on the list of requests from residents. The tree watering bags have been ordered and should be here in time for planting.

Citizens Comments: None

Staff Comments: None

Board Discussion: Commissioner Sansom inquired how the juneberry and nannyberry's trees did. Andy said they are doing well. All other Commissioners are in agreement with the recommendation.

MOTION

2014-10-156
Moved by Sansom
Second by Gaylord

To approve a contract with Robinson's Landscape and Nursery of Boyne City in an amount not to exceed \$9,140 and authorize the City Manager to sign the necessary documents.

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

1st Reading Noise Ordinance

Consideration to review the amendment to Article V, Section 34.141 – Noise Ordinance and schedule a second reading for the December 9, 2014 City Commission meeting.

Planning Director Scott McPherson discussed the noise ordinance the city currently has in effect. In 2009, in response to complaints stemming from music being played at what was 220 Lake Street, a citation was issued to their owner for violation of the noise ordinance. A hearing on the matter was held and the Charlevoix County District Court's opinion was that the noise ordinance was unconstitutionally vague due to the subjective nature violations were determined, and the Court dismissed the City's claims against the owner. Given this opinion, the Boyne City Police Department has not issued any subsequent citations for noise violation and has not used the noise ordinance to address noise complaints. The Police Department does receive noise complaints on a regular basis at an average of 61 complaints per year. In May of this year, the City Commission passed a motion that directed staff to work on a draft noise ordinance for the City based on the City of Mason model, not the decibel model, both of which were provided to them at that time.

Staff Comments: Chief Gaithers said they were trying to come up with something that works, keeps peace, not over-regulating, and enforceable. This proposed ordinance is modeled after the City of Mason's ordinance but they also looked at some of the things the Court dictated to us, which is why specific causes were identified.

Citizens Comments: None

Board Discussion: Commissioner Neidhamer said he is in full support of moving forward. The Planning Commission went through this thoroughly. He thinks we are in the right ball park. It's a tool needed and has been vetted by staff. Mayor Pro-Tem Towne said he believes this gives the Police Department something to work with. Commissioner Gaylord asked what instrument the officers are using to determine decibels. It's subjective. Chief Gaither said they looked at court cases to get language so it's not subjective. Commissioner Gaylord also discussed the noisy cats in the neighborhood and inquired about the time frames specified. What if someone is working midnights and sleeps during the day? Chief Gaither said they would have to go to what's most normally reasonable. Commissioner Gaylord asked if this applies to everybody in the Industrial Park. He said he sees nothing that remotely addresses that its part of the City. Make sure it's appropriate, not exclusionary and not affecting businesses negatively. Commissioner Sansom said she doesn't like the word "etc" used and wants it specific. Chief Gather said we are protecting people and their right to a peaceful community. Commissioner Sansom said she didn't see any fireworks addressed here and was informed the fireworks ordinance covers that.

MOTION

2014-10-157
 Moved by Towne
 Second by Sansom

To review the amendment to Article V, Section 34.141 – Noise Ordinance and schedule a second reading for the December 9, 2014 City Commission meeting, including the Commissioner's comments from today's meeting.

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

**Audit of Minimum
 Assessing Standard
 Results**

Consideration to authorize the City Manager and / or City Assessor to submit the action plan to the State Tax Commission as presented.

City Assessor Debra Chavez discussed the recent audit the City had regarding their assessing standards for the State Tax Commission. There was one finding, and that was "lack of documented land value determinations". The cause of this finding was because of the number of adjustments in the land value tables. Adjustments are generally given for shape of lot, buildability of lot, high traffic or special topography. The state feels it would be better to have a set rate when possible for these conditions to ensure equity within the role. Overall, Boyne City was placed among the top units in the County for its compliance. Debra also presented a recommendation for the action plan to submit to the State Tax Commission for corrective action for the 2015 tax roll.

Citizens Comments: None

Staff Comments: None

Board Discussion: All are in agreement.

2014-10-158
 Moved by Neidhamer
 Second by Gaylord

To authorize the City Manager and / or City Assessor to submit the action plan to the State Tax Commission as presented.

Ayes: 5
 Nays: 0
 Absent: 0
 Motion carried

MOTION

**Emmet County Mutual Aid
 Agreement**

Consideration to approve a Mutual Aid Agreement with Emmet County EMS beginning December 31, 2014 and authorize the City Manager to execute the documents.

City Manager Cain discussed the request from Emmet County to enter into a mutual aid agreement with the new EMS service that Emmet County is going to provide starting December 31, 2014. This agreement

is both necessary and practical for both parties. It is necessary for Emmet County in the pursuit of their Advance Life Support License and it is practical for us as to the limited resource we face in the delivery of emergency medical services. There are no fees and each agency is held harmless. Each agency can invoice for service rendered as is their normal daily function to the patient and the patient's insurance. City Manager Cain added that we don't have to say yes.

Citizens Comments: None

Staff Comments: None

Board Discussion: All are in agreement

MOTION

2014-10-159

Moved by Towne

Second by Neidhamer

To approve a Mutual Aid Agreement with Emmet County EMS beginning December 31, 2014 and authorize the City Manager to execute the documents.

Ayes: 5

Nays: 0

Absent: 0

Motion carried

ACD Antennas

Discussion of ACD Antennas and consideration of direction to staff.

City Manager Cain discussed the recent METRO Act agreement approved with ACD. Since that was approved, ACD has come forward and indicated they wanted to install 20 foot antennas and control boxes in five locations around the City. This was not spelled out in the METRO and is in violation of the METRO act although State Policy since puts that prohibition into question. These antennas would be used by Verizon to improve cell service in the City. We have contacted an experienced attorney to determine what our options are. The concern is if we allow one of these to go in, have we opened the door to an unlimited number, by various vendors, a door we can't close.

Citizens Comments: Jim Baumann said he is glad this has been brought to the attention of the Commissioners. Possibly put the towers on buildings.

Staff Comments: None

Board Deliberation: Commissioner Sansom said she is really opposed to putting towers in downtown. Commissioner Gaylord said he agrees to put them on buildings. It's nice having technology, but they need to look at something to fit our community. Commissioner Neidhamer thanked the City Manager for having this.

Good of the Order

Commissioner Neidhamer brought back a book to share from the recent MML conference. Commissioner Gaylord discussed the upcoming election day and the topic of hydrofluorosilicic acid in the water system. It is interesting how this has played out, very intriguing. He added that he thinks the citizens of Boyne City can research on their own and is very

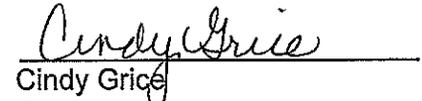
is firm in his conviction. Commissioner Sansom said she hopes voter turnout is good on Tuesday. There is a lot of information out there.

ADJOURNMENT
MOTION

Moved by Mayor Grunch seconded by Mayor Pro-Tem Towne to adjourn the regular City Commission meeting of Tuesday, October 28, 2014 at 4:32 p.m.



Ron Grunch
Mayor



Cindy Grice
Clerk / Treasurer